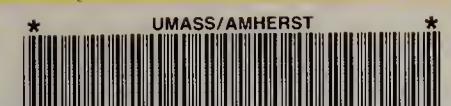


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Elder Protective Services Program Report

Fiscal Year 1990

Executive Office of Elder Affairs
38 Chauncy Street
Boston, Massachusetts 02111

**EXECUTIVE OFFICE OF ELDER AFFAIRS
ELDER PROTECTIVE SERVICES PROGRAM
FISCAL YEAR 1990**

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Making a Difference in the Lives of Abused Elders

Throughout this report, case examples are given which are representative of elders in whose lives Protective Services has made a difference. Elders are not always willing to accept help; many choose to live under difficult and painful conditions. However, the many success stories we hear about at Elder Affairs remind us that we are not only serving a certain population described in our statistics, but are making a crucial difference in the lives of individual elders who would otherwise suffer needlessly without Protective Services intervention.

Personal identifiers have been changed to protect client confidentiality.

Executive Summary

The Elder Protective Services Program, mandated by the Protective Services Statute (M.G.L., Chapter 19A. s. 14-26), is responsible for providing services to abused and neglected elders of the Commonwealth, aged 60 and over. Elder abuse is defined as "an act or omission which results in serious physical or emotional injury to an elderly person, or financial exploitation of an elderly person." Abuse includes physical battering and emotional maltreatment. Neglect includes the deprivation of necessities. Financial exploitation includes monetary or property loss to an elderly person excluding consumer complaints. Since July 1983, when the law took effect, reports of abuse or neglect have increased from 1,529 in FY '84 to 3,434 reports in FY '90.

During FY '90, cases of abuse and neglect increased 11 percent. Most of this increase occurred in the southeastern portion of Massachusetts.

The Protective Services Program is administered by the Executive Office of Elder Affairs, Office of Program Management. The Unit normally includes a Protective Services Director and five Regional Supervisors. Each Regional Supervisor is responsible for Protective Services Agencies and related programs clustered in one geographical area of the state: North, South, Greater Boston, Central and West. During FY '90, four Regional Supervisors were responsible for five (5) Regions, and the Elder At Risk, Homeless, Guardianship and Hotline Programs. The Southern Regional Supervisor position has not been filled for two years due to state management staff reductions.

Protective Services Delivery is provided by twenty-six Home Care Corporations and one Community Mental Health Center which have been designated by the Executive Office of Elder Affairs as Protective Services Agencies. Each designated agency is required to: receive and screen reports of abuse and neglect, conduct an assessment and functional evaluation and provide or arrange for Protective Services. Services provided may be casework, homemaker, home health aides, transportation, legal assistance, nutrition or other services necessary to alleviate the abuse or neglect.

The Elder Abuse Hotline operates 24-hours-a-day, 7-days-a-week to receive reports of abuse or neglect. Each designated Protective Services Agency has on-call staff to respond to emergency situations which occur after business hours. Elder Affairs staff can also be contacted through the Hotline for emergency consultation on a 24-hour basis.

The Elder at Risk Program provides casework intervention and counseling services to vulnerable elders through contracts with community agencies throughout the state. These agencies intervene to offer services to elders who are not abused or neglected but who are "at risk" due to other factors which effect their ability to remain safely in the community.

The Guardianship Program serves elders who have been abused or neglected. The Executive Office of Elder Affairs contracts with seven (7) private, non-profit social services agencies to provide Guardianship and Conservatorship services to elders who are at risk of injury, are incompetent and who have no other resources available to them.

The Executive Office of Elder Affairs maintains a strong commitment to abused and neglected elders of the Commonwealth, and continues to explore innovative and more cost effective ways to better serve this population.

During FY '90, Elder Affairs filed legislation to amend the Protective Services statute to include financial exploitation as a reportable form of abuse. This amendment will require the reporting and investigation of allegations of financial exploitation by family members or friends and subsequent reporting by the Protective Services Caseworkers of serious cases to the District Attorney. Since financial abuse is estimated to be one of the most prevalent forms of abuse, it is vital that Protective Caseworkers be able to intervene and prevent further exploitation.

For the past several years, Program staff at Elder Affairs has been working on developing a system for state-wide data collection. This year, the first of three revised documents, the Intake Form, was issued following a field test by Protective Services Caseworkers. This represents a major step towards the development of a profile of elder victims and towards increased understanding of the dynamics of abuse and neglect.

The Elder At risk Program, which provides short-term, crisis intervention to "self-neglecting" elders, was expanded during FY '90 to 22 service areas as opposed to providing services in 4 areas in previous years. In addition, a specialized Elder At Risk Program was initiated in Boston to focus on Cultural, Ethnic and Linguistic Minorities. Two contracts were established, one for Chinese at risk elders and one for Hispanic elders. Also, during this fiscal year, a request for proposals was issued in order to further expand this program to all 27 service areas throughout the Commonwealth during FY '91.

A comprehensive data collection instrument for the Elder At Risk Program was developed and implemented through a joint effort by Protective Services program staff and Elder Affairs' Research staff. In addition, a Program Instruction and Consent Form were issued which outline in detail the issue of consent to services in working with this vulnerable, at risk population.

In order to clarify the definition of neglect as a reportable condition, an extensive Program Instruction was issued which outlines factors that distinguish neglect by another person or support system of others from an elder's refusal of services for him/herself. A decision tree was developed to aid in identification of neglect.

Coordination efforts with District Attorneys across the Commonwealth continued this year, and several joint trainings were presented by Assistant District Attorneys, Victim Witness Advocates and Protective Services program staff.

Other program initiatives during FY '90 included the clarification of the emergency paging system clarifying protocol during telephone system failures. Revision of the Mandated Reporter Form, clarification of screening procedures for multiple reports, revision of the Notification of Assessment Form and procedures, and continuation of the development of Standards of Practice to include Standards For Investigation.

Elder Protective Services Program

ORGANIZATION

The Executive Office of Elder Affairs' Protective Services Program includes the following components which are administered or monitored by Elder Affairs.

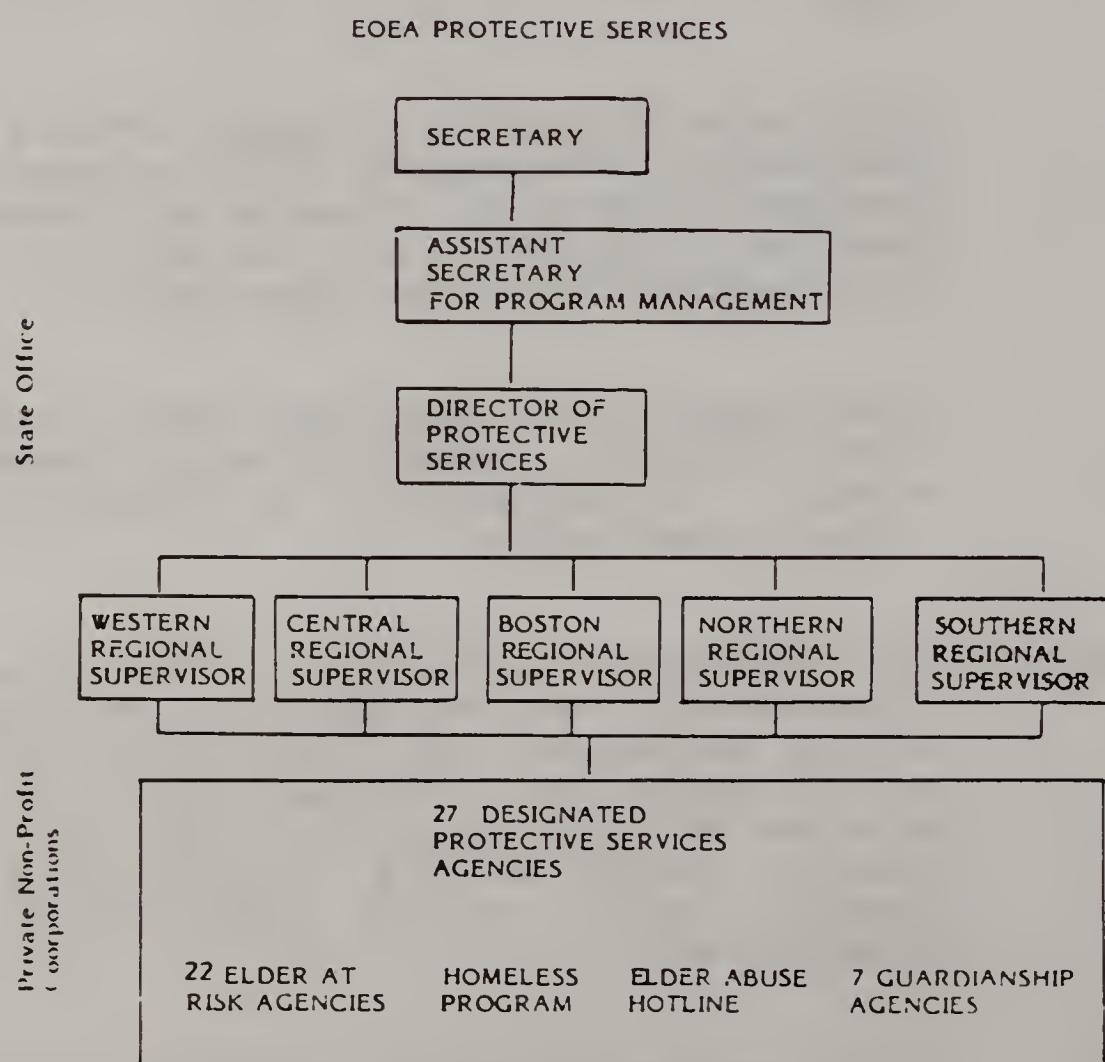
Protective Services Unit	Part of the Executive Office of Elder Affairs Office of Programs is the Protective Services Director and five Regional Supervisors. One Regional Supervisor position has been vacant since 1988.
Designated Protective Services Agencies	The Executive Office of Elder Affairs has designated twenty-seven (27), private, non-profit agencies to serve as Protective Services Agencies. All but one are Home Care Corporations (see Appendix I).
Statewide Elder Abuse Hotline	This component is operated under contract with a private, non-profit social service agency. It operates on a 24-hour-a-day, 7-day-a-week basis.
Elder At Risk Program	This component currently provides casework intervention and counseling services for elders throughout the Commonwealth who are not eligible for Protective Services, but who are at risk of injury due to other factors which affect their ability to remain safely in the community (See Appendix K).
Guardianship Services	These services are for a limited number of elders who need guardianship to prevent abuse or neglect (See Appendix J).

**Homeless
Elders
Project**

This is a specialized program for homeless elders in Boston. The Project provides housing search assistance, arranges for health and social services, assistance with personal care needs and information and referral services.

The Protective Services Unit reports directly to the Assistant Secretary for Program Management. Staff from the Executive Office of Elder Affairs has been assigned to each of the five regions within the Commonwealth. Regional Supervisors are responsible for program development, monitoring and evaluation, policy formulation, data collection, training, and clinical consultation. Elder Affairs staff has also established regulations and casework standards to ensure the implementation of these in the field. Public awareness and training for statewide organizations is also the responsibility of Protective Services staff.

The Elder Protective Services Program operates in twenty-seven (27) Protective Services areas which are congruent with the Executive Office of Elder Affairs' Home Care services catchment areas.



IMPLEMENTATION

The structure of the Elder Protective Services Program allows the sharing of responsibilities between the Executive Office of Elder Affairs and the designated agencies. The roles of Elder Affairs and the Protective Services Agencies, and the activities involved in meeting these responsibilities, are discussed below.

Designated Protective Services Agencies

Designated Protective Services Agencies have the responsibility for delivering Protective Services at the local level. Their major responsibilities and program objectives are:

- **Employment of Protective Caseworkers**

At the end of FY '90, there were over 60 full-time equivalent caseworker positions. Although the Executive Office of Elder Affairs established a standard job description and professional qualifications for Protective Caseworkers, they are not employees of Elder Affairs. Rather, they are employees of their respective Protective Services Agencies. The Protective Services Agency maintains qualification standards, supervises the work of caseworkers and provides on-going training to staff.

- **Provision of Protective Services**

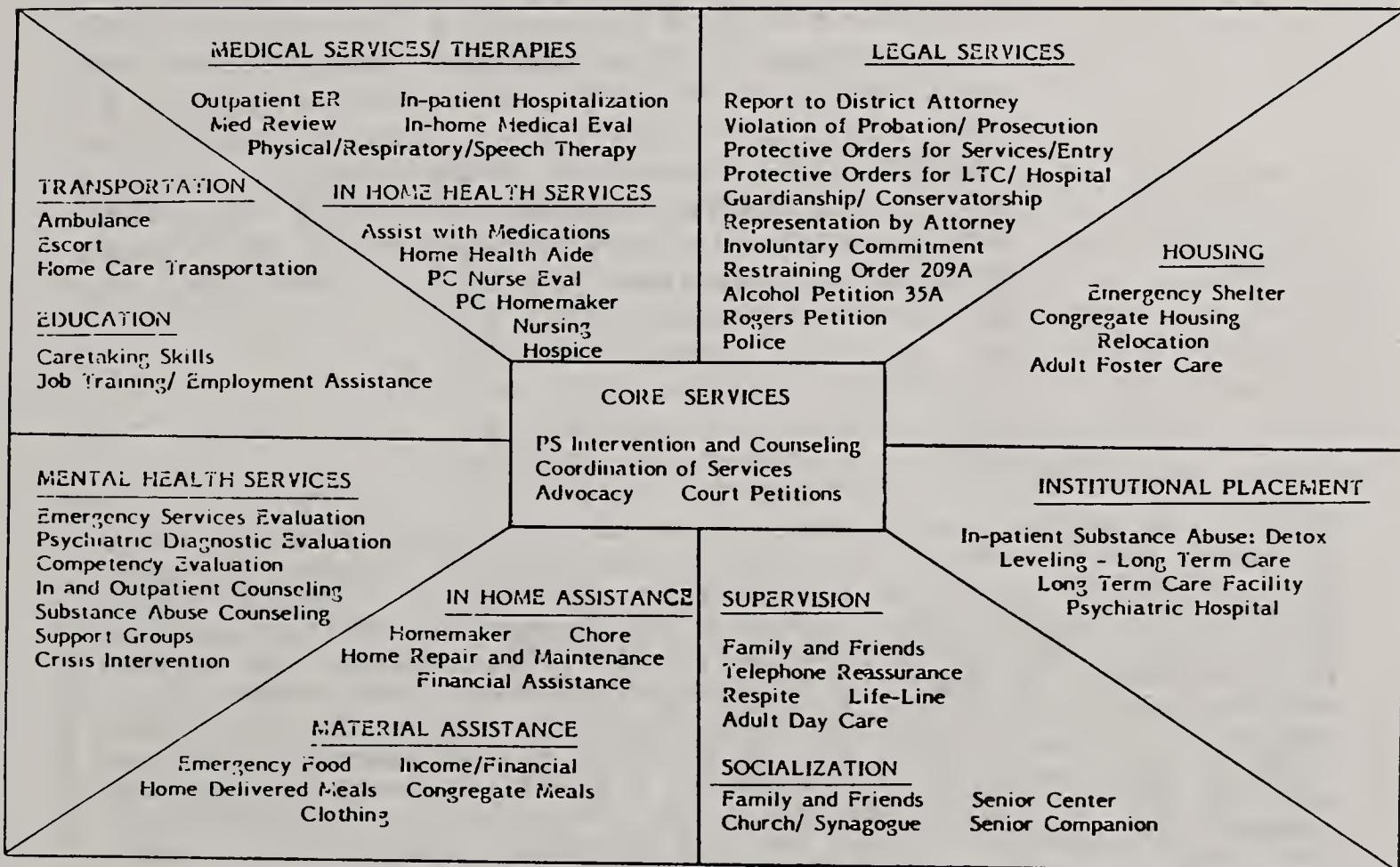
A report of elder abuse can be received from mandated reporters, such as, physicians, police and social workers, from family and friends or from an abused elder. These reports are received by either the 24-hour Elder Abuse Hotline, or by the Protective Services Agency. Each report is screened to determine if an emergency exists and if the report warrants an Assessment under M.G.L., Chapter 19A, s. 14-26. Many cases that are "screened out" as not being "reportable abuse" cases are, in fact, channeled into the State Home Care or Elder at Risk Program.

Protective Services Caseworkers have primary responsibility for conducting Assessments to determine whether abuse has occurred and to complete Functional Evaluations of elders to determine their mental, physical, social functioning and service needs. Caseworkers then develop Service Plans and provide or arrange for services which are designed to alleviate or eliminate abuse. Client-focused advocacy is crucial to the protection of abused elders, who may be confused and overwhelmed by difficult living circumstances and by a complex social services system.

Services are provided with the informed consent of the elder. Elders at risk of serious abuse, who lack the capacity to consent to services, may receive services ordered by the court. Because of the strong client advocate stance of Elder Affairs, services provided must be the least restrictive services available. Caseworkers, first, attempt to locate and secure services which allow elders to remain at home. Elders are actively supported in their right to self determination and independence while they are helped to live free from harm.

A 70-year-old, bedbound elder was being screamed at and threatened by her alcoholic son on a daily basis. The son had guns in the house and, on several occasions, put a gun under his mother's pillow to scare her. She, in fact, lived in constant fear of what he might do. Although the son had not physically abused his mother, he was often violent towards his sister. When he discovered that he was not in his mother's will, he tried to strangle his sister. The Protective Services Caseworker explained to the elder what options were available to protect her and recommended that she ask the police to remove the guns but the elder refused to involve the police. She agreed to see a counselor but only kept one appointment and refused to let the counselor talk to her son. Although she continued to be terrorized by her son, the elder refused all interventions. After five months of work with this elder, the caseworker closed the case, advising the elder that she could call the Protective Services Agency for assistance at any time.

Services which may be arranged or provided by the Protective Services agency are:



Protective Services are terminated either when the abuse/neglect is alleviated, or when the elder makes the informed choice of refusing further Protective Services. When Protective Services end, clients may, if appropriate, continue to receive Home Care services.

• Legal Intervention

Reporting Serious Abuse and Death to District Attorneys

Massachusetts General Laws, Chapter 19A, Sections 14 to 26 (see Appendix A), mandates the reporting of serious abuse and abuse-related deaths to District Attorneys. Standardized procedures and reporting forms are used for reports to the District Attorney. Once a report is filed, the District Attorney's office makes a determination, regarding legal action, while the Protective Services Worker continues to offer services to protect the elder.

Mrs L., an 86-year-old woman in the early stages of Alzheimer's disease, had two black eyes and serious facial bruises/scratches as a result of abuse by her 90-year-old husband. Mrs L. often became so confused that she did not recognize her husband but would follow him around constantly, repeating herself. Mr L. had refused Home Care Services because he believed that he should be able to provide his wife's care; however, he would often lose patience with her and hit her in the face or push her. Due to the severity and frequency of the abuse, a report of serious abuse was made to the District Attorney. The investigator and caseworker agreed that prosecution was not the solution in this case. Since Mr L. had a respect for law enforcement, the District Attorney's office was able to work with the caseworker to encourage Mr L. to accept services on behalf of his wife. Gradually, services were introduced. Mrs L. participated in adult day care, which provided daily structure for her as well as respite for Mr L. Also, the caseworker was able to contact family members who provided assistance on weekends. The physical abuse stopped as a result of these interventions.

Protective Orders

Protective Orders, through the probate court system, may be used in situations when an abused or neglected, elderly person lacks the capacity to consent to Protective Services. In such circumstances, sections 20(a) & (b) of M.G.L. Chapter 19A enable designated Protective Services Agencies to petition the probate court for a finding regarding the elder's capacity to consent.

The court may then issue an order for the provision of Protective Services which utilizes alternatives that are the least restrictive to the elderly person. The Elder Affairs Protective Services Regulations provide procedures for both emergency and non-emergency Protective Orders.

Guardianship Petitions

With a limited Guardianship Program to serve elders at risk of injury and who are in need of a conservator or guardian, Protective Services Agencies may petition the courts for an appointment of legal fiduciary when this is the least restrictive alternative remaining to provide for the protection of elders, lacking the capacity to consent to services.

Ms M., age 93, was threatened with eviction from her apartment because she was banging on doors at 2 AM and had not paid her rent for four months. In addition, she was incontinent and had been urinating in the hallways and throughout her apartment. She was confused, her health was deteriorating and she was refusing medical care and other services. Ms M.'s two nieces had been providing assistance but became frustrated and ceased their involvement. Since the Protective Services Worker believed that Ms M. was not safe in her present situation, and that she was not competent, a petition for guardianship was filed. The guardianship caseworker, however, decided to try to keep Ms M. at home. A payment schedule was established with the apartment management and the caseworker worked with Ms M. to curtail her disruptive behavior. The case worker learned that up until a few months ago, Ms M. had enjoyed a daily trip to McDonald's and some of her disruptive behavior was due to her frustration at not being able to continue her routine. Ms M. accepted a personal care homemaker who helped her bathe and dress in order to make her daily excursion. In addition, the case worker worked with the nieces who were then willing to resume the visits with their aunt. Ms M. has been able to be maintained safely in her own home for the past two years.

• Community Education

Protective Services Agencies have the responsibility of informing other professionals in the community of the mandatory reporting law and procedures.

Protective Services Agencies provide extensive training and community outreach to ensure that professionals have current information on Elder Protective Services.

Training sessions have been provided for hospitals, Visiting Nurse/Home Health Associations, Police Departments, Mental Health Centers, Senior Centers, Councils on Aging and other Social Service organizations. Training and community education are important in order to maintain awareness of Elder Protective Services as well as to develop links with community agencies which also serve elders.

**The EOEA
Protective
Services
Unit**

The Executive Office of Elder Affairs has the responsibility of coordinating the effective and efficient delivery of Protective Services on a statewide basis. The major activities and program responsibilities of Elder Affairs are:

•Program Monitoring

Through the four Regional Supervisors, each designated Protective Services, Guardianship, Elder At Risk and Hotline Agency is monitored for adherence to Elder Affairs Protective Services Regulations (651 CMR 5.00), Program Instructions and for quality of service provision.

•Clinical Consultation and Training

The Protective Services Director and the Regional Supervisors are available to all designated agencies on a 24-hour basis for clinical consultation on difficult abuse cases and in emergency situations.

Training on clinical and regulatory issues occurs on a regular basis both through monthly regional meetings and periodic seminars.

•Program and Policy Development

The Protective Services Director and Regional Supervisors have responsibility for ongoing reassessment of current policy and practice, development of program modifications and creating new program initiatives to better meet the needs of abused elders in Massachusetts.

•Data Collection

The Executive Office of Elder Affairs collects monthly statistics from each designated agency regarding the number and types of reports received, the results of assessments conducted, and the number of cases opened and closed during each month. Statistics are gathered for the Hotline, Guardianship, Elder at Risk and Homeless programs. These statistics are aggregated on both a regional and statewide basis.

•Community Education

Community education is the primary means of increasing public awareness of elder abuse. Elder Affairs provides general information regarding elder abuse and specific information regarding reporting requirements and procedures to the general public. In addition, Elder Affairs staff has presented to local and national conferences, to community groups and to professional organizations.

The Regional Supervisors also work with each designated Protective Services Agency to ensure that mandated reporters in each area are knowledgeable about reporting and available services.

**Statewide
Elder Abuse
Hotline
1-800-922-2275**

The Protective Services Statute mandates the Executive Office of Elder Affairs to establish a mechanism for the receipt of reports on a 24-hour-per-day basis. Further, it requires designated Protective Services Agencies to have the capacity to respond to an emergency and to arrange for services to alleviate abuse to an elder on a 24-hour-per-day basis.

The Elder Abuse Hotline, through contract with the Greater Lawrence Mental Health Center, operates 24-hours-a-day, 365-days a year to receive reports of elder abuse and to provide information and referral services to elders. The toll-free number in Massachusetts is (800) 922-2275. Each Designated Protective Services Agency is required to have one staff person on call by pager after business hours, and to have administrative back up available.

If the staff of the Elder Abuse Hotline determines that an immediate emergency response is necessary, the Hotline pages the local Caseworker. That designated agency staff person then responds in order to alleviate the risk to the elder.

The Executive Office of Elder Affairs also maintains after-hours coverage for emergency Protective Services situations. Each night and on weekends, one Regional Supervisor carries a pager in order to be available for consultation. The Protective Services Director also carries a pager and serves as administrative back-up.

A 64-year-old woman was terrorized by her brother when he arrived at her home with a knife, pulled the telephone out of the wall and threatened to kill her. The woman, Ms N., escaped to a neighbor's and called the Elder Abuse Hotline. The local on-call Protective Services Caseworker immediately called the police who responded to the elder's home. Since Ms N. stated that her brother was mentally ill and had a history of psychiatric hospitalizations, the caseworker attempted to arrange an emergency psychiatric evaluation. Although this was not possible, it was determined that Ms N. would be safe if her brother was not able to have any contact with her. The caseworker was able to locate a relative who was willing to stay with Ms N.'s brother. The locks were changed on Ms N.'s house, a friend agreed to stay with her, and the Hotline remained on alert in the event that further intervention was necessary that night.

Guardianship and Conservatorship Program

The statewide Guardianship/ Conservatorship Program operates as a component of the Elder Protective Services Program and is intended to serve abused and neglected elders as defined by M.G.L., Chapter 19A, s 14-26.

Elder Affairs contracts with five (5) family services and two (2) mental health agencies to provide Guardianship, limited Guardianship, Conservatorship and Representative Payee services to elders who are deemed incompetent by the court and at risk of injury.

The primary objective is to act as an adjunct to Protective Services, when no other less restrictive means are available to protect elders who are lacking the capacity to consent to services.

This is a program of last resort and, therefore, admission is stringently monitored. Guardianship and Conservatorship are protections utilized only in extreme situations when all less restrictive alternatives to ensure an elder's safety have been exhausted. Careful screening is also important because of the relatively small number of available slots that must be reserved for the worst situations.

The referral process is multi-tiered. First, the case is screened at the level of the designated agency by the worker and supervisor. It is then screened by a Regional Protective Services Supervisor. At this point, it is very common for cases to be refused access - due to inappropriateness or because there are alternatives still to be explored. A final decision on difficult cases may be reached through consultation with the Protective Services Director and a staff attorney.

The criteria for admission are:

1. No other appropriate person
2. Few financial resources, or resources are not accessible
3. Lack of guardianship could result in serious injury, exploitation or death of the elder
4. All other alternatives have been explored
5. Medical certificate of incompetency.

Guardianship agencies provide all services necessary to carry out the orders of the court and to meet the needs of the elder. These include financial management, arranging for services, social casework and management of personal affairs.

In monitoring these agencies, the Executive Office of Elder Affairs places primary emphasis on how well the agency is ensuring the elder's safety. Safety is to be ensured by implementing the least restrictive means while involving the elder in the decision making process as much as possible. The major goals of this program are:

1. To protect the incompetent elder from harm and exploitation, and
2. To preserve, as much as possible, the incompetent elder's rights to self determination and dignity.

Guardianship contracts include the provision of time-limited, casework assistance to families as a way of helping families take fiduciary responsibility for their elders while reducing costs to the state in caring for abused, incompetent elders. Currently there is the capacity to serve 115 elders.

Elder At Risk Program (EAR)

Elder Affairs contracts with twenty two (22) non-profit agencies throughout the Commonwealth to provide problem-focused, goal-oriented casework intervention, and to counsel elders who are at risk and would be unable to remain safely in the community without intervention. In cases of neglect, the Protective Services Regulations require the presence of a caretaker. Often, however, elders living alone may be unable or unwilling to provide for their own basic needs and therefore are at risk. This program benefits this very vulnerable and previously unserved population.

The goal of the EAR contract is to target the frail, self-neglecting, marginally competent elders, living in the community, who are often not otherwise eligible and/or willing to accept services.

This program includes two contracts which address the special needs of cultural, ethnic or linguistic minorities in Boston. These two programs focus on the needs of Hispanic and Chinese Elders at Risk.

Individual and/or family alcoholism and mental health problems, which impact on the elder's functional status are issues addressed by the Elder At Risk Program. In addition, intervention is often focused on alleviating problems which might lead to the elder's eviction.

The key indicator for deciding the appropriateness for inclusion in the EAR program, is whether the client is "at risk" due to any existing problems. Operationally defined, an elder is "at risk" if that elder would not be able to safely remain in the community without agency intervention.

The Office of Elder Affairs continues its work to strengthen this program to address the needs of at-risk elders in all the communities of the Commonwealth.

The Homeless Program

This is a program, funded at the Boston III Home Care Corporation, which is designed to provide services to homeless elders in Boston. Most of these elders require intensive casework intervention. Services provided can include health care coordination, transportation, assistance in the housing search, placement in temporary emergency housing, placement in permanent housing, assessment of the need for Guardianship or Conservatorship and home care services.

In addition, caseworkers assist clients in accessing income and benefits for which they may be eligible, in obtaining legal assistance and in receiving evaluation and treatment. The Homeless Elders Program has been successful in obtaining temporary and permanent housing for many homeless elders.

Mrs L., a 64-year-old, well-educated nurse from an affluent Boston suburb, had been homeless for over ten years, living in shelters and on the streets. Mrs L. had a history of severe depression which, until recently, had been untreated and had prevented her from adequately caring for herself. Although outwardly cooperative, she was unable to trust anyone enough to allow them to help her. Through gradual but consistent contacts with Mrs L., the Homeless Program Caseworker was able to gain her trust over a period of time. As a result, she accepted a referral for psychiatric intervention and is now on medication for her depression. Mrs L. and the caseworker have worked together on sorting out her complex financial situation, enabling Mrs L. to receive the benefits to which she is entitled. With each small accomplishment, Mrs L. gained self-confidence and became more committed to her relationship with the Caseworker and herself. Transitional housing allowed Mrs L to relearn basic tasks of daily living in order to enable her to live independently. During this time, Mrs L. became a support to the other residents, doing errands and taking them for walks. When permanent housing became available in this same building, Mrs L. was accepted and moved into her new apartment with relative ease, where she continues to be an active member in her community.

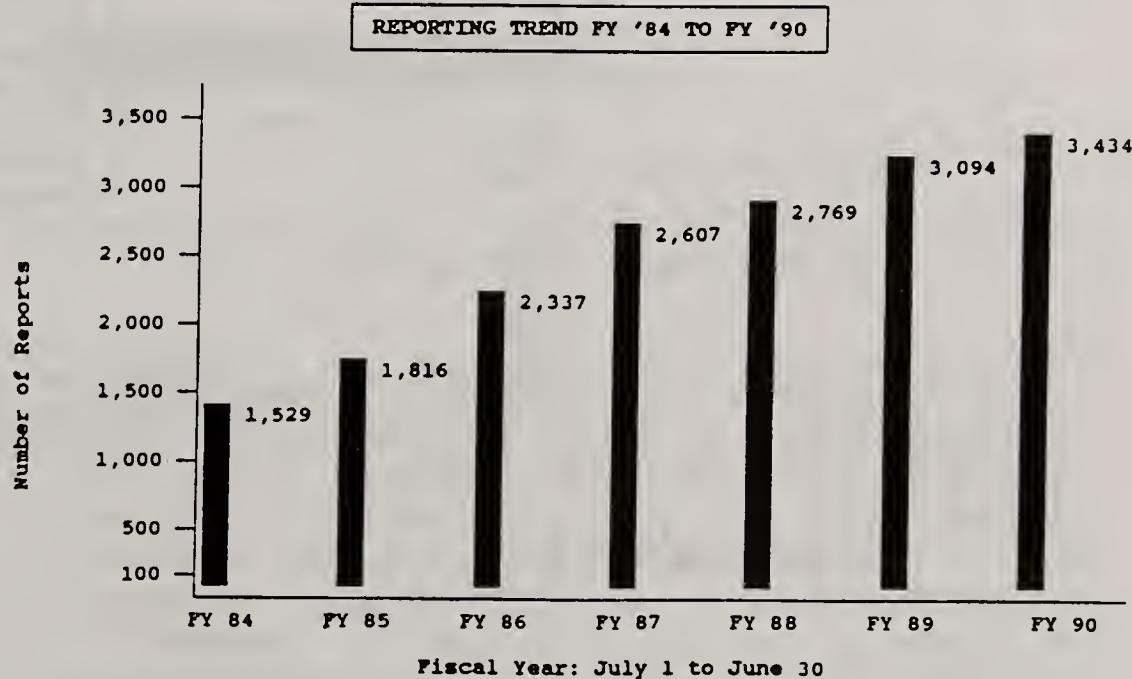
FY'90 Accomplishments

PROTECTIVE SERVICES STATISTICS

Increasing Reports of Abuse

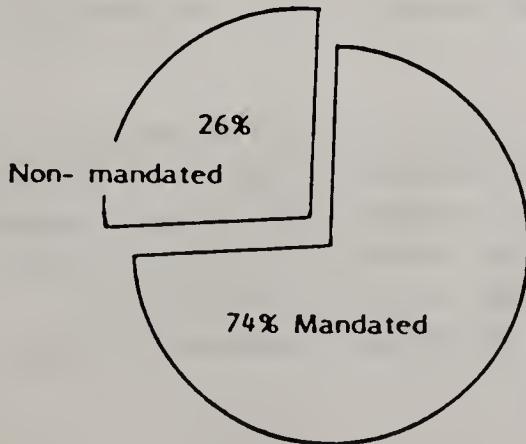
Reports of abuse and neglect have increased from 3,094 reports in FY '89 to 3,434 reports in FY '90. Reports made in FY '90 increased 11 percent over FY '89.

Reports of abuse and neglect increased 11 percent in FY '90.



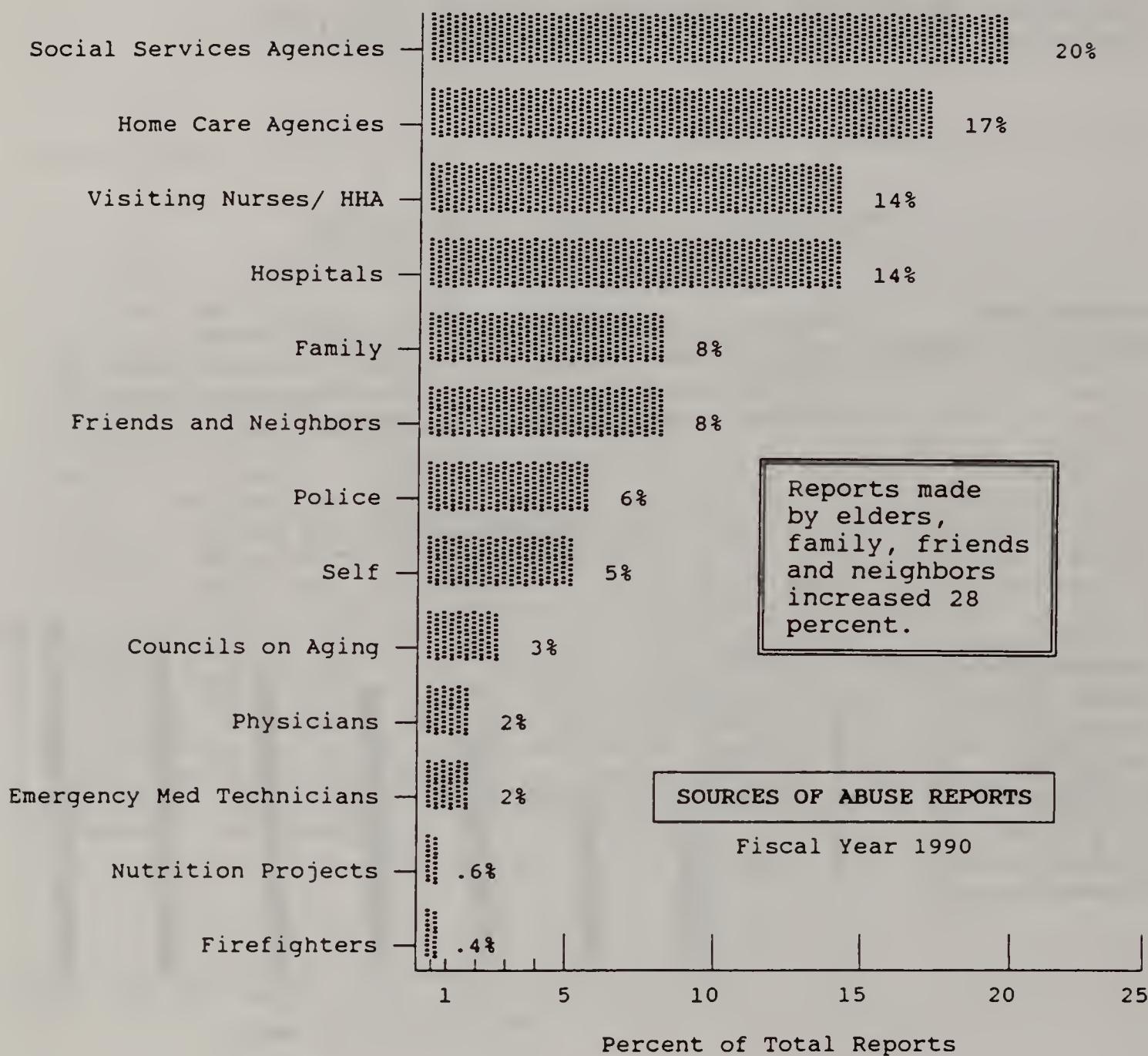
Mandated Reporting

During FY '90, 3,434 reports of abuse and neglect were received. Mandated professionals filed 2,534 reports, while 900 reports were received from non-mandated reporters, such as family and neighbors. Self-referrals, family and friends contributed 750 of those non-mandated reports which were made, or 22 percent of the total reports received.



Sources of Reports

Sources of FY '90 reports for the Commonwealth by report source were:



Increased reporting in FY '90 is largely due to a 28 percent increase in reporting by abused elders, their families and neighbors. Mandated reporting increased 7 percent.

Although Police and Physicians continue to appear to be under-reporting, of those reports received by mandated reporters, these professionals exhibited the most significant increases in reporting for FY '90 at 43 and 37 percent respectively.

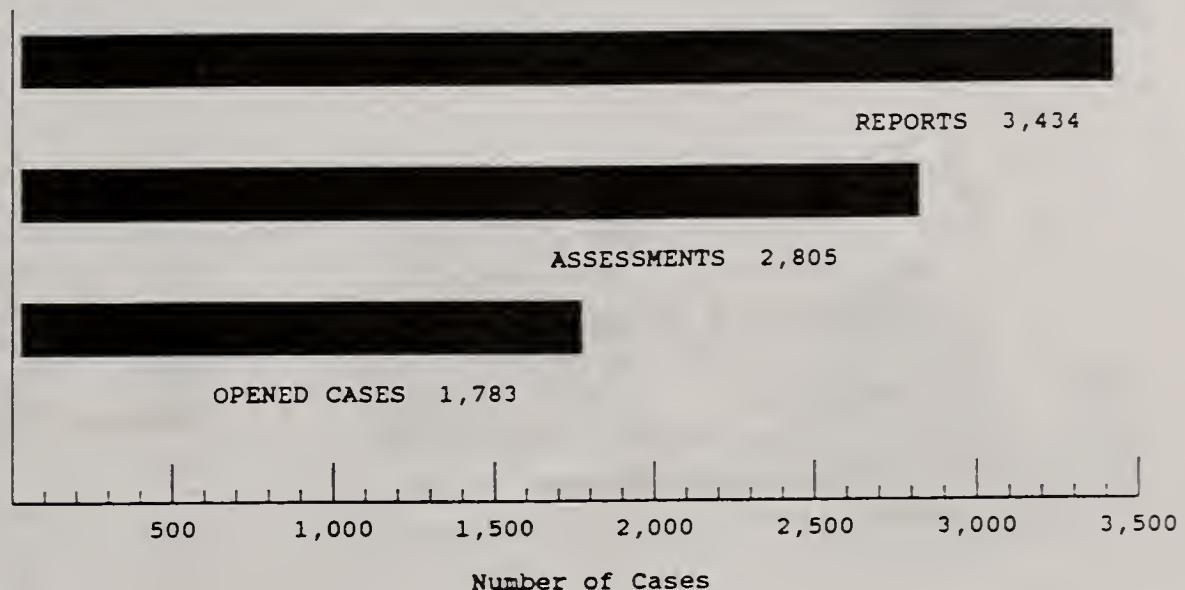
**Reports Received
and Cases Opened
to Provide
Protective
Services**

Of the 3,434 abuse and neglect reports received statewide in FY '90, 2,805 or 82 percent were assessed - in accord with 651 CMR 5.14 of the Protective Services Regulations. Of those cases investigated, 1,783 or 64 percent were found to involve abuse or neglect and were opened to provide Protective Services. Opened cases increased 5 percent over last year.

ELDER ABUSE STATE TOTALS

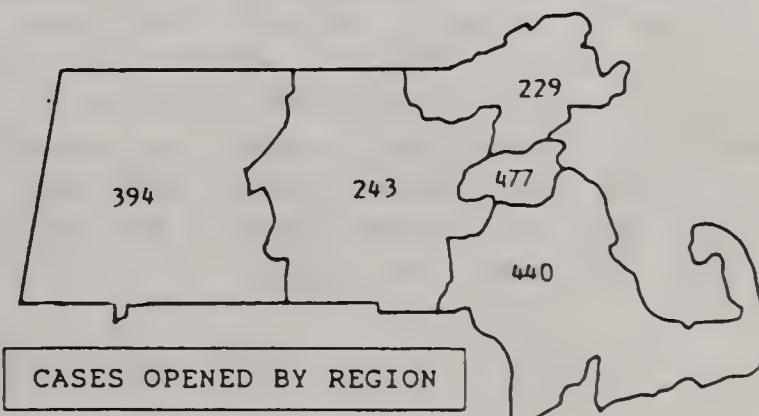
Fiscal Year 1990

Cases
opened
increased
5 percent.



**Total Cases
Opened by Region**

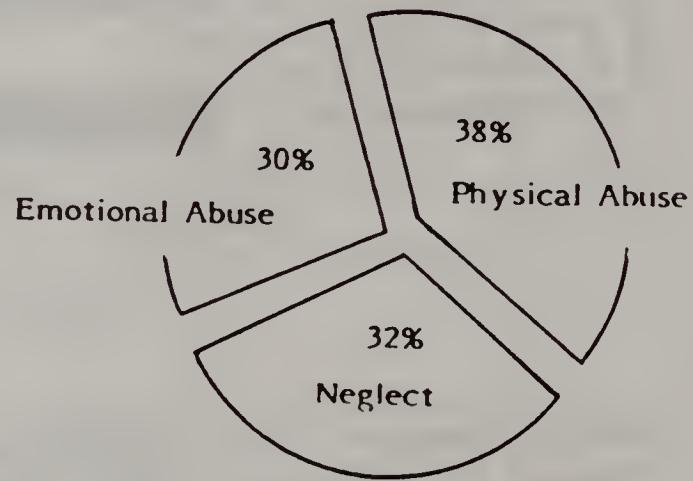
Cases opened for services provision in the Commonwealth during FY '90 by region were 477 Greater Boston, 440 Southern Region, 394 Western Region, 243 Central Region and 229 Northern Region. The Southern Region accounts for the greatest increase in Massachusetts protective services cases, with a 29 percent increase over FY' 89. Central Region cases increased by 18 percent, while the Greater Boston Region had an increase of 6 percent. The North Region had an 18 percent decrease in opened cases, while the Western Region decreased by 9 percent.



**Types of Cases:
Physical Abuse
Neglect and
Emotional Abuse**

Of the 1,783 cases opened throughout the Commonwealth, 674 or 38 percent involved physical abuse, 530 or 30 percent for emotional abuse and 579 or 32 percent for neglect as the primary case focus. Physical abuse cases increased 14 percent over FY '89. Neglect cases increased 7 percent, while emotional abuse cases decreased 6 percent. It is noted that cases often involve multiple forms of abuse and neglect.

Physical Abuse	674
Neglect	579
Emotional Abuse	530



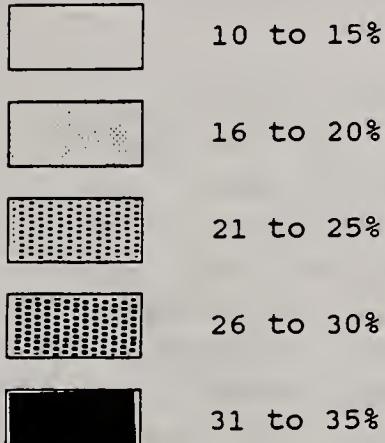
**Changes in Types
of Abuse Cases
By Region**

Several notable changes in types of cases, opened by Region, occurred. The Southern Region experienced a 75 percent increase in physical abuse cases in FY '90, which accounted for a majority of the increase in physical abuse cases for the Commonwealth. All Regions exhibited increases in cases of neglect ranging from 19 to 28 percent, except the Northern Region which had a 76 percent decrease in neglect cases. There was an overall decline in emotional abuse cases, statewide, except in the Central Region, which had a 19 percent increase in FY '90.

Types of Abuse by Region

Types of abuse cases opened across the Commonwealth by region:

PERCENT OF STATE TOTAL



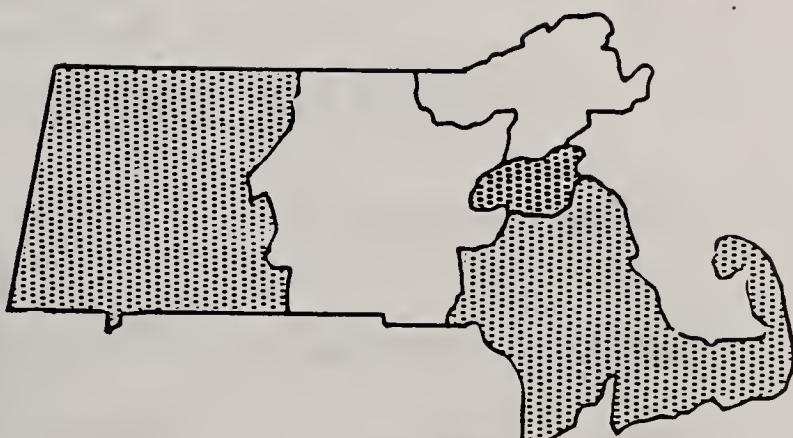
PHYSICAL ABUSE

Boston	21%
Central	14%
South	31%
North	16%
West	18%



EMOTIONAL ABUSE

Boston	26%
Central	13%
South	22%
North	15%
West	24%



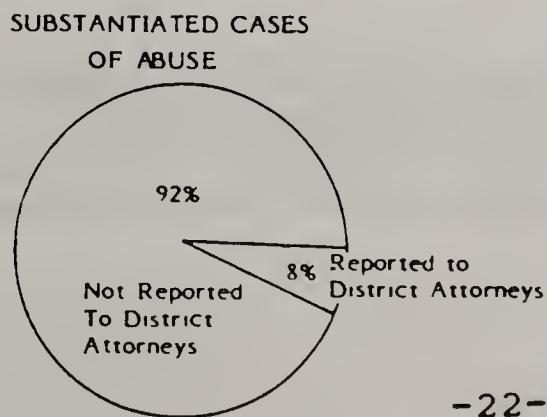
NEGLECT

Boston	35%
Central	14%
South	20%
North	6%
West	25%



Reports to District Attorneys

A total of 147 cases involving serious injury were reported to District Attorneys, or 8 percent of those cases assessed and determined to have involved abuse. There was an 8 percent increase in the number of cases being reported to the District Attorney over FY' 89.



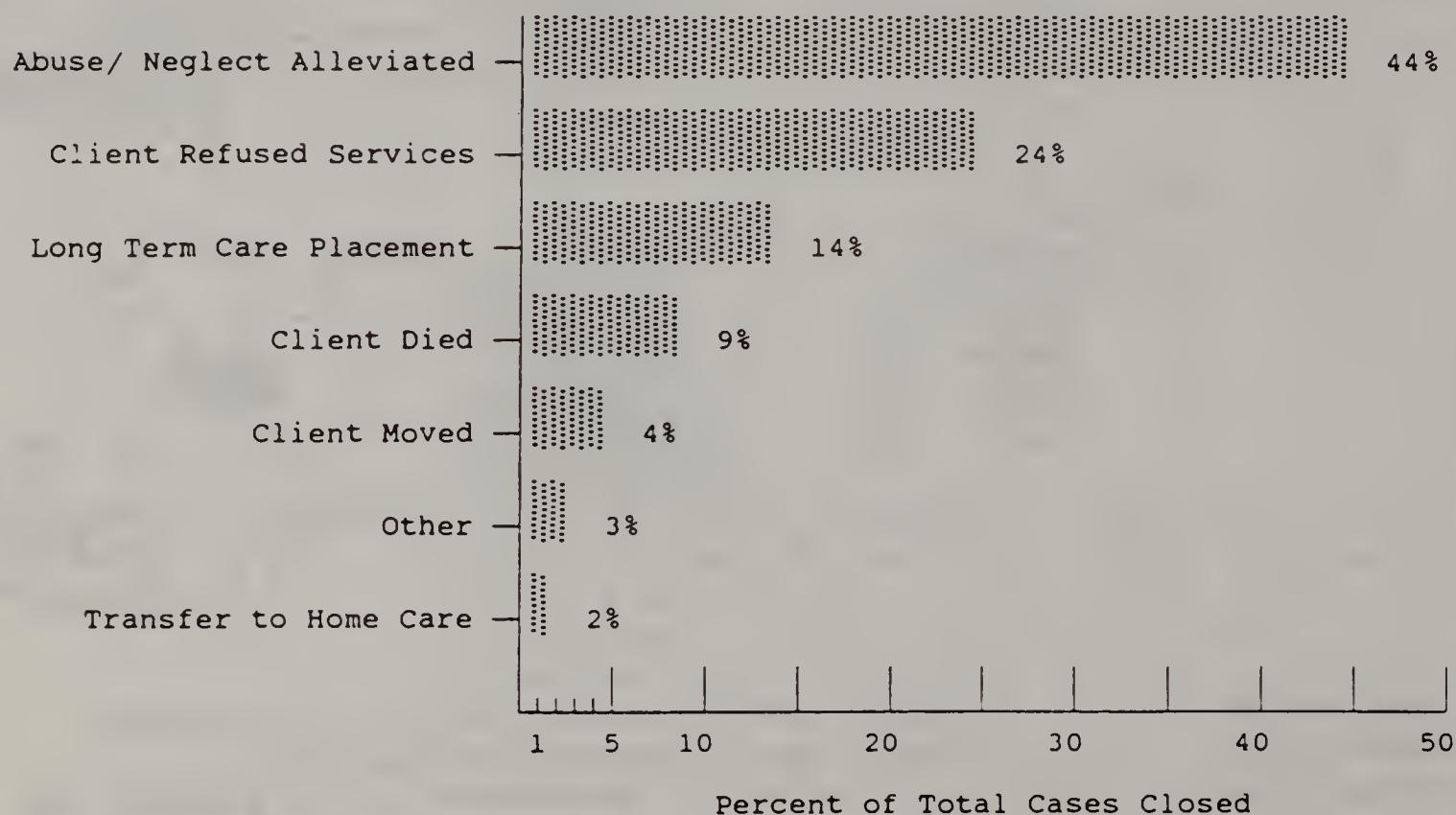
Case Disposition

Of the 1,750 cases closed in FY '90, 61 percent were closed, following successful Protective Services intervention to alleviate or eliminate abuse, which includes long-term care placement and transfer to Home Care. Thirty-nine percent were closed due to the refusal of services, client moves and death.

The successful alleviation of abuse or neglect increased 9 percent in FY '90, while the long-term care placement of clients decreased by 18 percent. A decrease in institutionalization may be related to a strong programmatic emphasis on the use of least restrictive alternatives and support for elders who remain in the community, despite cutbacks in Home Care services.

Reason for Closing

CASE DISPOSITION: STATEWIDE



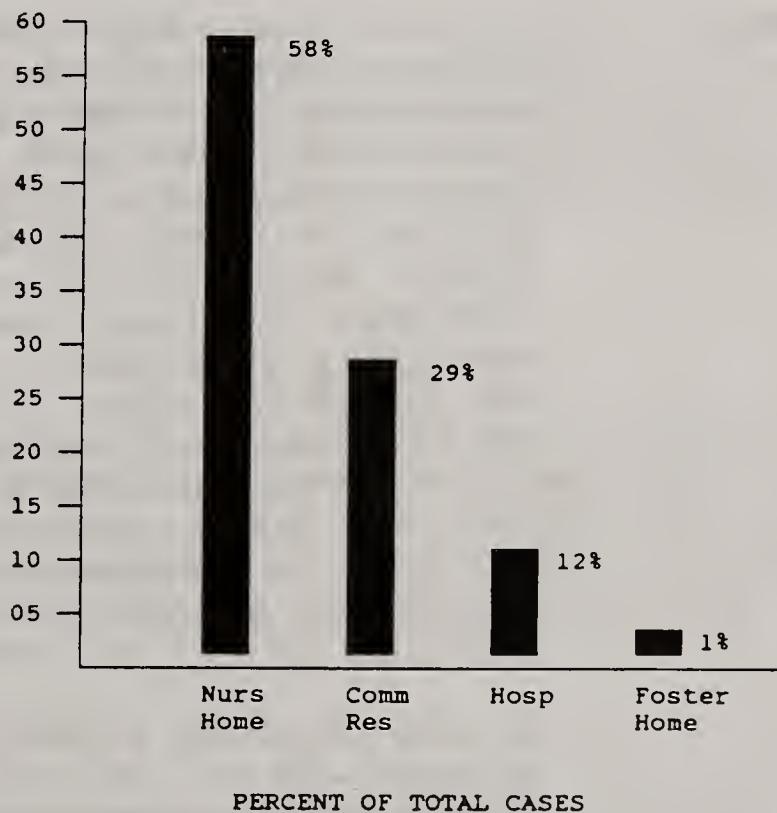
Statewide, 61 percent of abuse and neglect cases were closed following successful casework.

Guardianship

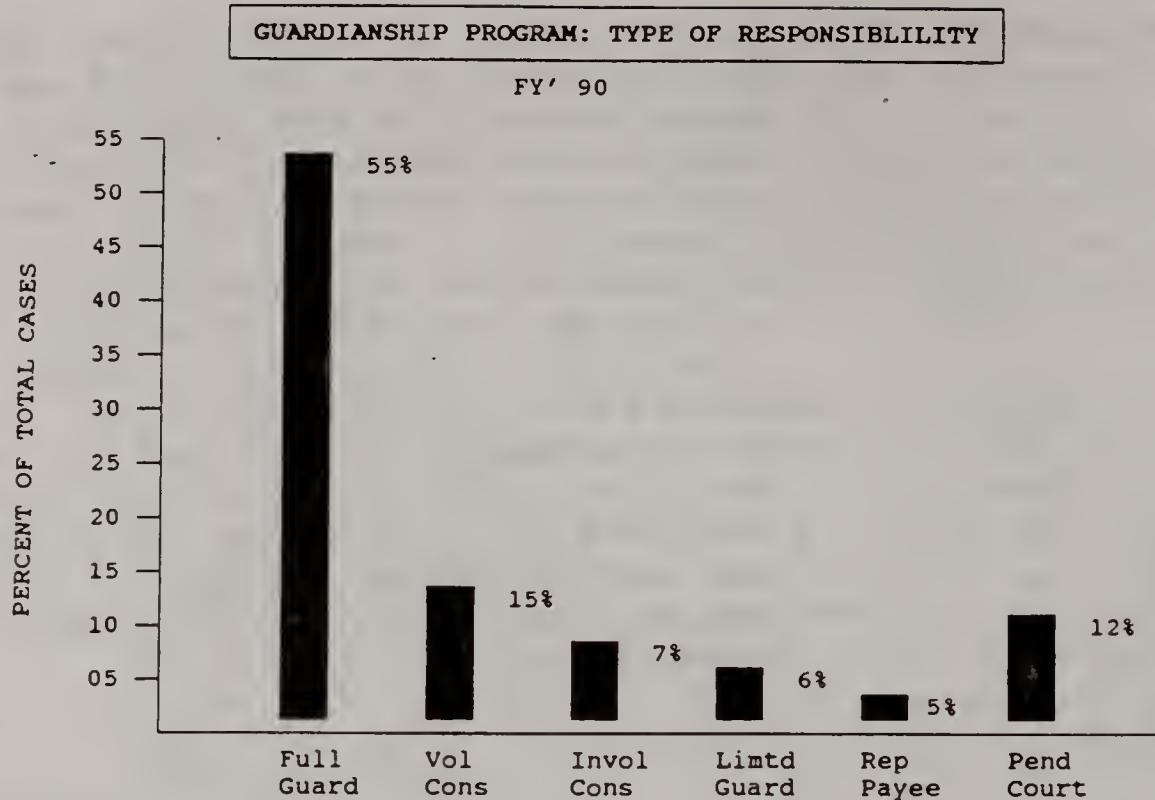
As of June 30, 1990, the Guardianship Contractor Agencies served as guardians, conservators, or representative payees for seventy (70) elders. During FY '90, 14 new cases were opened, and 14 cases closed. Of the 84 elders served, 55 percent were Guardianships, 15 percent voluntary Conservatorships, 7 percent involuntary Conservatorships, 6 percent limited Guardianships, 5 percent Representative Payees and 12 percent were awaiting court appointed fiduciaries. Thirty eight elders or 59 percent resided in nursing homes, while 27 elders or 41 percent were served while residing in the community.

GUARDIANSHIP PROGRAM: ELDER RESIDENCES

FY' 90



Of those elders served in the guardianship program, 41 percent have been able to remain in the community.



Elder Abuse Hotline

Of 7,027 incoming calls received by the Elder Abuse Hotline, 312 were reports of abuse and 327 were requests for emergency intervention on open Protective Services cases. This is a 15 percent increase over FY '89 in cases of abuse reported to the Elder Abuse Hotline and a 48 percent increase in cases requiring after-hours emergency response. Elder Affairs staff was contacted after hours for consultation on eighteen (18) cases. Other incoming calls involved requests for information and referral, and alerts to Protective Services Caseworkers regarding potential, emergency, after-hours cases.

Homeless Elders

Of 104 homeless elders who were provided casework in FY '90, twenty, or 19 percent, were found long-term housing, congregate housing or were placed in nursing homes. Information and referral, and consultation was provided for 74 additional homeless elders.

Elder at Risk

During the initial six-month, start-up period of the new statewide Elders at Risk Program, 1311 referrals were received. There were 436 cases open as of June 30, 1990.

SPECIAL PROJECTS

Special projects were undertaken in FY '90 by the Executive Office of Elder Affairs Protective Services Unit to bring about program modifications, resulting in improved services to abused elders.

Statewide Data Collection

The first of three revised documents used to collect statewide demographic data on elder abuse was revised and implemented in FY '90. A field test of the Elder Abuse Intake Form was completed, input from Protective Services Staff was obtained and final revisions were made for implementation of the final form in FY '91.

Elder Affairs Protective Services and Research Staff designed, wrote and implemented a computer software package for the compilation and printing of the Protective Services Intake statistical reports.

Standards of Practice: Protective Services Investigation

The Task Force to develop Standards of Practice for Protective Services met monthly during FY '90 to address the Investigation process. This group plans to complete and disseminate these Standards during FY '91.

Clarification of the Identification Neglect

A Program Instruction was issued to clarify the complex issues involved, both in identifying situations of elder neglect and in identifying caretakers - those persons responsible for the elder's care. In addition, this Program Instruction addressed the issues of inappropriate labeling of types of neglect and of individuals involved in protective situations.

Mrs H., age 80, began arriving at Day Care in dirty, urine-soaked clothes and with head lice. Her daughter was being paid by her mother's trust fund to provide personal care but had a history of not providing adequate care for her mother. In addition, the daughter encouraged Mrs H. not to take her medications, mixed medications together and would yell at her that she wished she would die. Although Mrs H. was fearful of her daughter, she had in the past refused to take any action fearing that her daughter might become homeless. After working with the Protective Services Case worker, Mrs H. decided to look at some nursing homes. On one such visit, she refused to leave and requested immediate admission, which was allowed. Despite the daughter's continued efforts to harass her mother and gain control of her finances, Mrs H. stayed in the nursing home and utilized the support of staff in dealing with her daughter.

**Financial
Exploitation
Legislation**

The Executive Office of Elder Affairs filed legislation to protect Massachusetts elders from financial exploitation by family or other persons, and to report serious cases to the appropriate District Attorney. Excluded from this legislation are acts covered by the Consumer Protection Law of the Acts of 1990.

Upon investigating a report that Mr R., age 83, was being struck in the head by his son, the Protective Services Worker found that Mrs R., age 78, who had Alzheimer's disease, was being forced into a small room and locked in, had no clothes other than a nightgown and had not been bathed or cared for. Although they were living with an extended family, no one was providing care for Mrs. R. The son who had obtained a Power Of Attorney for his mother's finances withdrew \$40,000 from her account, transferred the house to his own name and took both parent's monthly checks. The Protective Services Caseworker filed a report of serious abuse with the District Attorney and Mr R. pressed charges of assault and battery. Since attempts to gain the cooperation of the family in providing care for Mrs R. were not successful, the caseworker petitioned the court for a Protective Order. The family was ordered to pay for supplies and services and to cooperate with service providers and the son was ordered to vacate the home. The court also ordered that the property, which had been transferred illegally, be returned to Mrs R. and used for her care.

**Screening
Procedures**

Elder Affairs issued a Program Instruction to expand the Standards of Practice for Intake. In this Program Instruction, Elder Affairs delineated the procedures for the screening of reports of abuse or neglect in regard to open and closed cases and multiple reports.

**Notification
of Assessment**

Elder Affairs issued a Program Instruction revising the Notification of Assessment form and specifying the expectation for method of delivery in order to ensure that elders are informed about the Protective Services Investigative Process

**Elder At Risk
Program**

Elder Affairs reissued a Request For Proposals (RFP) for the Elder At Risk (EAR) Program in July 1989, on a state wide basis. In addition to the general RFP, a request was issued for EAR services to Cultural, Ethnic and Linguistic Minorities in the City of Boston.

Based on review committee recommendations, Elder Affairs granted contracts to provide EAR services in twenty-two service areas across the Commonwealth, beginning January 1, 1990. In addition, two minority contracts, for Chinese and Hispanic elders, were funded in the City of Boston.

In February, 1990, Elder Affairs reissued the RFP for the service areas previously not funded. In addition, an RFP was issued in the City of Worcester, for minority EAR services. Four additional service areas were funded through this process, with contracts to begin July 1, 1990. No contracts were funded for minority services in Worcester.

Following the death of her husband, Mrs B. became so severely depressed that she didn't pay her bills, neglected medical care for her diabetes and refused to leave her house. The town was threatening to take her home for non-payment of taxes, her telephone was disconnected and she had termination notices for her utilities. Her son, who lives out of state, became desperate for help and contacted the Elder At Risk agency for assistance. The caseworker, over the course of several visits, helped Mrs B. to accept in-home medical care. With Mrs. B.'s consent, the case worker arranged a repayment plan on her taxes and other bills and assisted her in applying for fuel assistance. Once her telephone was reconnected, she was able to renew old friendships and maintain contact with her family. Mrs B.'s health and social functioning have dramatically improved and she continues to live in her own home.

**Elder At Risk
Statistical Data
Collection**

The Elder At Risk Statistical Reporting Form and instructions for completion were issued by Elder Affairs for the purpose of statewide data collection. In addition to maintaining accurate information about the target population, monthly data collection serves to guide program development and to highlight future resource needs for the Elder At Risk Program.

**Elder At Risk
Consent Form**

A standardized informed consent and release of information form was introduced by Elder Affairs for implementation by the Elder At Risk Agencies. Issues of client resistance and competency were addressed in the instructions for completion.

**Hotline Data
Collection**

A national sampling of statewide, after hours Hotline data collection instruments was conducted during FY '90. A statistics collection instrument was developed in conjunction with Elder Abuse Hotline Staff and implemented by Elder Affairs. Several states have indicated a desire to receive information on Massachusetts hotline data collection: contact will be made with these states during FY '91.

Elder Affairs Protective Services Staff implemented computerized Hotline data collection using Database software.

**Reporting to
District
Attorneys**

Statewide efforts were made by Elder Affairs to coordinate co-sponsored trainings with District Attorneys' offices to improve working relationships with and reporting by Protective Services Agencies.

Meetings were held and plans were made with the Essex, Hampden and Norfolk County District Attorneys' Offices to provide training during FY '91.

Elder Affairs and the Worcester County District Attorney's Office jointly developed a protocol for reporting cases of serious abuse and for enhancing interagency cooperation following the filing of a report.

**Investigation
Standards of
Practice and
Investigation
Form**

The Standards Task Force continued to meet during FY '90 as work progressed toward completion of Investigation Standards of Practice. Draft Standards were reviewed by Elder Affairs Staff. Work continued on the development of the revised Investigation Form. The development of Standards and the Investigation Form will be finalized during FY '91.

Mr F., the 68-year-old owner of a small restaurant, returned home from the hospital to be cared for by his son. The son, who had a history of mental illness, took his father's hearing aide and walker away from him and further isolated him by refusing to allow any outside contact. Mr F. became increasingly afraid of his son who frequently slapped him in the head and one day banged a trash can over his head and laughed. During an attempted visit by his sister, Mr F. was able to slip a note out the window describing what was happening and asking for help, pleading to get his son out of the house. The sister called the police who filed a Protective Services report and obtained a Restraining/Vacate Order. Upon being served with the order, the son refused to leave and was arrested. The Protective Services Worker, at the elder's request, advocated for the son to be admitted to the State Hospital for evaluation, rather than jail. Ongoing advocacy with the Department of Mental Health focused on getting the son alternative housing so that he would not return to his father's home. The caseworker enlisted the help of other family as well as an attorney friend and assisted Mr F. in arranging for the services and support that he needed. With the provision of a homemaker, meals and transportation, and the involvement of friends and family, Mr F. has been living at home, free of abuse for over a year.

**Mandated
Reporter Form**

A revised form for mandated reporters was issued by Elder Affairs. This updated version is consistent with the new Elder Abuse Intake Form.

**On-Call Paging
System**

Clarification of procedures for after hours, statewide, emergency response by Protective Services Agencies and during business hours, in the event of telephone system failure, was issued by Elder Affairs.

**Protective
Services
Training/
Conferences**

Workshops, Conferences and training provided during FY '90 included:

National

1989 National Guardianship Association Conference, Atlantic City, New Jersey: Accountability

Presentation of evaluation criteria and standards utilized by Elder Affairs in evaluation and monitoring the Guardianship Program.

Joint Conference on Law and Aging, Washington, D.C.: Financial Exploitation

Panel discussion highlighting the national perspective on financial exploitation of elders, the experience of the legal community of Prince George's County and Massachusetts' experience with financial abuse of elders through the Protective Services Program.

The National Aging Resource Center on Elder Abuse: A Focus on Law Enforcement and Elder Abuse - A National Training and Technical Assistance Teleconference

**Commonwealth of
Massachusetts**

Massachusetts Home Care Association: The Identification and Reporting of Elder Abuse

The Office of Elder Affairs presented a workshop to statewide Home Care Staff on the Elder Protective Services Program and reporting of elder abuse in Massachusetts.

Legislative Day for Elders

Protective Services' Staff participated in a panel presenting issues of financial exploitation, consumer fraud and protection for vulnerable elders.

Board of Directors Conference: Home Health/Respite Care/Social Day/Protective Services

Elder Affairs Staff presented four programs available to Home Care clients. The Protective Services presentation focused on the role and responsibility of the Board of Directors in providing a legally mandated program.

Elder At Risk Statewide Training

Elder Affairs Staff presented an all day mandatory training session to caseworker and supervisory staff for the new Elder At Risk programs. Program intent and parameters, including identification of the target population and ways to intervene, were presented. Elder At Risk agency staff also received additional training sessions throughout the first months that the program was in operation.

4th Annual Protective Services Recognition Day and Conference

The fourth all-day Protective Services Conference was hosted by Elder Affairs. Protective Services and Guardianship staff were recognized for their dedication and professionalism. Workshops were offered on topics such as Sexual Abuse of the Elderly, Substance Abuse, and Preparation for Court Testimony. The Edward R. McCarthy award was presented by Secretary Lanzikos to Joan Hatem, Protective Services Supervisor at Elder Services of the Merrimack Valley in recognition of her expertise in and commitment to Protective Services.

Regional Training

Civil Rights and Violence Against Minority Populations

Elder Affairs participated in a panel presentation to Smith College and the community on violence against elders and minority persons. This workshop was sponsored by the Franklin/Hampshire District Attorney's Office.

Greater Springfield Senior Services Board of Directors

Elder Affairs participated in a presentation of the Elder Abuse Program addressing the scope and responsibilities of the Protective Services Agency, in cooperation with GSSS Staff and attorney.

Working with the District Attorney's Office

During Fy '90, Elder Affairs coordinated trainings for Protective Services staff with the District Attorney's Office in both Middlesex and Worcester County. These trainings provided a forum for the development of protocols for reporting cases of serious abuse between D.A. and for on-going interaction between the two agencies, after a report is filed.

Guardianship

A presentation was made to members of a task force concerned with mental health issues for the elderly at Elliot Mental Health in Concord. The guardianship process and alternative interventions were discussed.

Housing and Social Services: Sponsored by the Executive Office of Elder Affairs, Executive Office of Community Development, Central Boston Elder Services and Boston Housing Authority

Participated on a multidisciplinary panel. Case presentations offered focus for discussion of Protective Services, Legal, Public Health, and housing issues.

Elder Protective Services and Elder At Risk Program

A presentation was made to Boston Housing Authority social workers on program parameters, distinctions, and indicators of abuse and at risk situations.

Action For Boston Community Development

Senior Advisors Meeting - Overview of the Protective Services and Elder At risk Programs including ways to work with the system to alleviate at risk conditions.

Protective Services and Utilization of Protective Orders

A presentation was made to the Social Work staff at Brigham and Womens Hospital on the Protective Services Program and how Protective Orders can be used to alleviate abuse.

Brookline Council on Aging

Elder Affairs made a joint presentation with West Suburban Elder Services on the legal, regulatory and service requirements of the Protective Services Program.

Protective Services Program

Presentation to Home Care Nurses on mandates and services of the program.

The Boston Society for Gerontologic Psychiatry, McLean Hospital: How to Identify and How to treat Elder Abuse.

Participated in panel discussion on nursing home and community elder abuse.

Police Response to Domestic Violence and Elder Abuse

A Police training seminar for all of the Police Departments in Middlesex County, sponsored by the District Attorney for Middlesex County.

FY'91 Initiatives

The Executive Office of Elder Affairs Protective Services Unit will begin and continue a number of projects during FY '91. These initiatives are designed to strengthen the Elder Protective Program.

Financial Exploitation	Chapter 107 of the Acts of 1990 amended c. 19A to include Financial Exploitation as a type of elder abuse. During FY '91, regulations, procedures, forms and public awareness campaigns will be changed to include financial exploitation as an integral part of the Protective Services Program.
Regulatory Modifications	Because the Protective Services Regulations will be changed to specifically include Financial Exploitation, Elder Affairs will be making additional regulatory modifications in order to reflect the program's general development.
Standards of Practice: Investigation	The conclusions and deliberations of the statewide Assessment Standards Task Force which has been meeting on a regular basis during FY '90 will be finalized for issuance as Standards of Practice for Investigation during FY '91.
Investigation Form	In conjunction with regulatory changes, the issuance of Standards of Practice for Investigation, ongoing data collection initiatives, and the current Assessment Form will be revised during FY '91 into a document that reflects the improved Protective Services investigatory procedures.

**Service Plan
Revision**

As the result of an extended field test, Elder Affairs will be issuing a new Service Plan which incorporates comments and recommendations from the field. The new service plan will more effectively focus on the problem-solving nature of Protective Services Casework.

Program Review

During FY '90, agreement was reached on the necessary contents and format of Protective Services Program Reviews for designated Protective Services Agencies. A Program Instruction will be issued during FY '91 informing the field of Program Review Expectations.

**Agreements With
District
Attorneys**

Since FY '88, Elder Affairs has been working with District Attorneys' offices around the Commonwealth to develop working agreements regarding both reporting and mutually appropriate actions to be taken on Elder Protective Cases. These efforts will continue until agreements are established with all District Attorneys' offices on a statewide basis.

**Elder at Risk
Program**

Now that the Elder at Risk Program has been implemented on a statewide basis, the focus for FY '91 will be on program reviews, data collection, and further program development. Of critical importance is the need to gather and analyze demographic data regarding the population served. Elder Affairs Protective Services and research staff will design, write and implement a computer software package for the compilation and reporting of Elder At Risk statistics.

Training

Plans will be made to provide statewide training through the annual Protective Services Recognition Day.

OFFICERS OF THE COMMONWEALTH

19A § 14

1985 Amendment. St.1985, c. 755, approved Jan. 6, 1986, in the third paragraph, rewrote cl. (c).

1986 Legislation

St.1986, c. 563, approved Dec. 8, 1986, in the clause relating to home care programs, inserted the requirement relating to the appointment of a majority of the governing body of the home care providers by the councils on aging of the cities and towns served by the provider and the paragraphs relating to contracts with home care pro-

viders that do not comply with the requirements relating to composition of the governing body

Code of Massachusetts Regulations

Home care program, regulations governing, see 651 CMR 3.01 et seq.

Prior Laws:

G.L. c. 6, § 73, as added by St.1954, c. 537, § 2.

St.1955, c. 591.

St.1964, c. 430, § 2.

St.1967, c. 765, § 4.

§ 4A. Sliding fee scale for home care services; financial eligibility limits

The department shall establish a sliding fee scale to provide home care services for certain persons whose income exceeds the limits established under Title XX of the Social Security Act. On July first of each year, the department shall increase the financial eligibility limits for home services, including the sliding fee scale, by a percentage equal to the percentage increase in federal social security benefits for that fiscal year. The department shall forward to the house and senate committees on ways and means on or before March first of each year, a full report on the status of the home care program audit.

Added by St.1982, c. 357, § 5.

1982 Enactment. St.1982, c. 357, § 5, an emergency act, was approved July 20, 1982, and by § 21 made effective as of July 1, 1982.

§ 6. Regulations**Code of Massachusetts Regulations**

Discrimination based on age, agencies receiving funds from department, see 651 CMR 8.01 et seq.

§ 14. Definitions applicable to sections 14 to 26

For the purposes of sections fourteen to twenty-seven¹, inclusive, the following words and terms shall, unless the context otherwise requires, have the following meaning:

"Abuse", an act or omission which results in serious physical or emotional injury to an elderly person; provided, however, that no person shall be considered to be abused or neglected for the sole reason that such person is being furnished or relies upon treatment in accordance with the tenets and teachings of a church or religious denomination by a duly accredited practitioner thereof.

"Caretaker", the person responsible for the care of an elderly person, which responsibility may arise as the result of a family relationship, or by a voluntary or contractual duty undertaken on behalf of an elderly person, or may arise by a fiduciary duty imposed by law.

"Conservator", a person who is appointed to manage the estate of a person pursuant to chapter two hundred and one.

"Court", the probate and family court.

"Department", the department of elder affairs.

"Elderly person", an individual who is sixty years of age or over.

"Emergency", a situation in which an elderly person is living in conditions which present a substantial risk of death or immediate and serious physical or mental harm.

"Guardian", a person who has qualified as a guardian of an elderly person pursuant to chapter two hundred and one, but shall not include a guardian *ad litem*.

"Protected person", an elderly person for whom a conservator or guardian has been appointed or other protective order has been made.

"Protective services", services which are necessary to prevent, eliminate or remedy the effects of abuse to an elderly person.

"Protective services agency", a public or nonprofit private agency, corporation, board, or organization designated by the department pursuant to this chapter to furnish protective services to elderly persons.

Added by St.1982, c. 604, § 1. Amended by St.1987, c. 566, § 1.

¹ So in original; probably should read "twenty-six".

1982 Enactment St.1982, c. 604, § 1, was approved Dec. 28, 1982. Emergency declaration by the Governor was filed Dec. 29, 1982.

Sections 1A and 2 of St.1982, c. 604, provided:

"Section 1A. The department of elder affairs shall, subject to appropriation, implement the provisions of section one of this act on or before July first, nineteen hundred and eighty-three.

"Section 2. If any provision of the act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of the act which can be given effect without the invalid

provision or application, and to this end the provisions of the act are declared severable."

1987 Legislation

St.1987, c. 566, § 1, approved Dec. 14, 1987, deleted the definition of geriatric evaluation process, which read:

"'Geriatric evaluation process', a team of medical psychological, psychiatric, social work professionals designated or established by the department for the purpose of conducting comprehensive physical, mental, social evaluation of an elderly person."

§ 15. Reports of abuse; liability

(a) Any physician, a medical intern, dentist, nurse, family counselor, probation officer, social worker, policeman, firefighter, emergency medical technician, licensed psychologist, coroner, registered physical therapist, registered occupational therapist, osteopath, podiatrist, executive director of a licensed home health agency or executive director of a homemaker service agency who has reasonable cause to believe that an elderly person is suffering from or has died as a result of abuse, shall immediately make a verbal report of such information or cause a report to be made to the department or its designated agency and shall within forty-eight hours make a written report to the department or its designated agency. Any person so required to make such reports who fails to do so shall be punished by a fine of not more than one thousand dollars.

(b) The executive director of a home care corporation, licensed home health agency or homemaker service agency shall establish procedures within such agency to ensure that homemakers, home health aides, case managers or other staff of said agency who have reasonable cause to believe that an elderly person has been abused shall report such case to the executive director of the corporation or agency. The executive director shall immediately make a verbal report of such information or cause a report to be made to the department or its designated agency and shall within forty-eight hours make a written report to the department or its designated agency.

(c) In addition to a person required to report under the provisions of subsection (a) of this section, any other person may make such a report to the department or its designated agency, if any such person has reasonable cause to believe that an elderly person is suffering from or has died as a result of abuse.

(d) No person required to report pursuant to the provisions of subsection (a) shall be liable in any civil or criminal action by reason of such report; provided, however, that such person did not perpetrate, inflict or cause said abuse. No other person making such a report pursuant to the provisions of subsection (b) or (c) shall be liable in any civil or criminal action by reason of such report if it was made in good faith; provided, however, that such person did not perpetrate, inflict or cause said abuse. Any person making a report under subsection (a), (b) or (c) who, in the determination of the department or the district attorney may have perpetrated, inflicted or caused said abuse may be liable in a

civil or criminal action by reason of such report. No employer or supervisor may discharge, demote, transfer, reduce pay, benefits or work privileges, prepare a negative work performance evaluation, or take any other action detrimental to an employee or supervisee who files a report in accordance with the provisions of this section by reason of such report.

(e) Reports made pursuant to subsections (a) and (b) shall contain the name, address and approximate age of the elderly person who is the subject of the report, information regarding the nature and extent of the abuse, the name of the person's caretaker, if known, any medical treatment being received or immediately required, if known, any other information the reporter believes to be relevant to the investigation, and the name and address of the reporter and where said reporter may be contacted, if the reporter wishes to provide said information. The department shall publicize the provisions of this section and the process by which reports of abuse shall be made.

(f) Any privilege established by section one hundred and thirty-five of chapter one hundred and twelve or section twenty B of chapter two hundred and thirty-three relating to the exclusion of confidential communications shall not prohibit the filing of a report pursuant to the provisions of subsection (a), (b) or (c).

Added by St.1982, c. 604, § 1. Amended by St.1987, c. 566, §§ 2 to 4.

1982 Enactment St.1982, c. 604, § 1, was approved Dec. 28, 1982. Emergency declaration by the Governor was filed Dec. 29, 1982.

1987 Legislation

St.1987, c. 566, § 2, approved Dec. 14, 1987, in the first sentence of subsec. (a), inserted "fire-fighter, emergency medical technician," and deleted "aid" following "executive director of a licensed home health".

Section 3 of St.1987, c. 566, in subsec. (d), added the provisos to the first and second sentences, and inserted the third sentence.

Section 4 of St.1987, c. 566, added subsec. (f).

Library References

Asylums ♦3.

Physicians and Surgeons ♦10.

C.J.S. Asylums and Institutional Care Facilities §§ 5 to 8.

C.J.S. Physicians and Surgeons §§ 31 to 35

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

§ 16. Protective services system

(a) Subject to appropriation, the department shall develop a coordinated system of protective services for elderly persons who are determined to be abused. In planning this system, the department shall require input from the department of social services, the existing protective service agencies and other agencies currently involved in the provision of social, health, legal, nutritional, and other services to the elderly, as well as elderly advocacy organizations.

(b) Within this protective services system, the department shall establish a mechanism for the receipt of reports made pursuant to section fifteen which shall operate and be accessible on a twenty-four hour per day basis. If the department or its designated agency has reasonable cause to believe that an elderly person has died as a result of abuse, the death shall be reported immediately to the district attorney of the county in which the abuse occurred. Within forty-five days of the receipt of a report made pursuant to subsection (a) of said section fifteen, the department or its designated agency shall notify the reporter, in writing, of its response to the report. Such notification shall be made to a person who makes a report pursuant to subsection (c) of said section fifteen if said reporter so requests.

(c) Subject to appropriation, the department shall designate at least one local agency to act on behalf of the department with a geographic area as defined by the department. The department may designate any public agency or private nonprofit organization which has the capacity to implement a service plan through direct access to social, health and mental health services. The department shall utilize existing resources and services of public and nonprofit private agencies in providing protective services. The department shall insure that assessment, evaluation and service delivery shall be provided through the designated local agency closest to the elderly person's community.

In designating agencies, the department shall insure that: (1) persons conducting assessment, evaluation and service delivery have demonstrated experience in providing protective and other social health services to elders, have these protective functions as their primary employment responsibility, and have other professional qualifications as determined by the secretary; (2) continuity of care under one protective services worker is assured throughout assessment, evaluation and services delivery to the extent possible; and (3) the department and the designated agencies have the capacity to respond to an emergency and provide or arrange for services to alleviate the immediate danger of abuse of an elderly person on twenty-four hours per day basis.

The department shall monitor assessments, evaluations and the provision of protective services by designated local agencies.

(d) The department shall issue regulations establishing criteria and procedures for the designation of protective services agencies or for the termination or designation or redesignation of protective services agencies.

(e) The department shall be responsible for continuing coordination and supervision of the system. In carrying out these duties, the department shall, subject to appropriation: (1) adopt rules and regulations for the system; (2) continuously monitor the effectiveness of the system and perform evaluative research about it; and (3) utilize grants from federal, state and other public and private sources to support the system.

Added by St.1982, c. 604, § 1. Amended by St.1987, c. 566, § 5.

1982 Enactment St.1982, c. 604, § 1, was approved Dec. 28, 1982. Emergency declaration by the Governor was filed Dec. 29, 1982.

1987 Legislation

St.1987, c. 566, § 5, approved Dec. 14, 1987, in the second sentence of subsec. (b), substituted "abuse occurred" for "elderly person resided".

§ 17. Protective services agencies; authorized activities

A protective services agency is authorized:

- (1) to receive and investigate reports of abuse;
- (2) to furnish protective services to an elderly person with his or her consent;
- (3) to petition the court for appointment of a conservator or guardian or for issuance of an emergency order for protective services;
- (4) to furnish protective services to an elderly person on an emergency basis as hereinafter provided;
- (5) to furnish protective services to a protected person with the consent of such person's guardian or conservator;
- (6) to serve as conservator, guardian, or temporary guardian of a protected person; and
- (7) to perform all other functions determined by the department to be necessary for the administration of this chapter.

Added by St.1982, c. 604, § 1.

1982 Enactment St.1982, c. 604, § 1, was approved Dec 28, 1982. Emergency declaration by the Governor was filed Dec. 29, 1982.

§ 18. Assessment and evaluation of reports; investigations; arrangement for protective services

(a) The department or its designated agency shall assess and evaluate the information reported pursuant to the provisions of section fifteen.

Such assessment shall include a visit to the residence of the elderly person who is the subject of the report and may include consultations with appropriate service agencies and individuals who have knowledge of the elderly person's situation including the person

filing the report. The elderly person who is the subject of the report shall receive written notice that an assessment is being conducted and shall have the right to review the file and report developed as a result of the assessment.

If the assessment results in a determination that the elderly person is suffering from abuse, the department or the designated agency shall evaluate the elderly person's functional capacity, situation, and resources and shall develop a service plan for the provision of protective services. Said plan shall be appropriate to the needs of the elderly person and shall utilize the least restrictive alternatives.

The department shall adopt rules and regulations establishing time limits for the completion of assessments and evaluations and for the implementation of service plans; provided, however, that if an emergency exists, assessments shall be completed within twenty-four hours of the receipt of the report.

If an assessment results in a determination that the elderly person has suffered serious abuse, the department or designated agency shall report such determination to the district attorney of the county where the abuse occurred within forty-eight hours. The district attorney may investigate and decide whether to initiate criminal proceedings.

(b) The department or the designated agency shall provide or arrange for protective services in accordance with the service plan developed pursuant to the provisions of subsection (a). Protective services shall include, but not be limited to, the following: the capacity to respond to an emergency; protective services case work; the capacity to provide or arrange for a homemaker, home-health aide, transportation, legal assistance, counseling, nutrition services, guardianship and conservatorship, protective order through the court, emergency shelter, foster care, and adult day care services.

The department or the designated agency is authorized to arrange for additional services necessary to assist and protect elderly persons who have been abused, including, but not limited to, the following: medical care, mental health care and emergency financial assistance.

Added by St.1982, c. 604, § 1. Amended by St.1987, c. 566, §§ 6, 7.

1982 Enactment St.1982, c. 604, § 1, was approved Dec. 28, 1982. Emergency declaration by the Governor was filed Dec. 29, 1982.

1987 Legislation

St.1987, c. 566, § 6, approved Dec. 14, 1987, in the fifth paragraph of subsec. (a), in the first sentence, substituted "where the abuse occurred" for "within which the elderly person resides".

Section 7 of St.1987, c. 566, in subsec. (b), in the second sentence of the first paragraph, added ", emergency shelter, foster care, and adult day care services"; and, in second paragraph, deleted "provide or" following "is authorized to", deleted "emergency housing" following "the following:", and deleted ", foster care and adult day care services" following "emergency financial assistance".

§ 19. Consent to protective services; interference with provision of services

(a) Any elderly person who requests or affirmatively consents to the receipt of protective services may receive said services. If the person withdraws or refuses consent, the service shall not be provided or continued except as provided in section twenty.

(b) No person shall interfere with the provision of protective services to an elderly person who requests or consents to receive such services. In the event that interference occurs on a continuing basis, the department, a protective services agency, or the public guardian may petition the court to enjoin such interference.

Added by St.1982, c. 604, § 1.

1982 Enactment St.1982, c. 604, § 1, was approved Dec. 28, 1982. Emergency declaration by the Governor was filed Dec. 29, 1982.

§ 20. Lack of capacity to consent to protective services; hearings; emergency orders; placement or commitment

(a) If the department or its designated agency has reasonable cause to believe that an elderly person is suffering from abuse and lacks the capacity to consent to the provision of protective services, the department or its designated agency may petition the court for a finding that the elderly person is incapable of consenting to the provision of protective services. Said petition shall set forth the specific facts upon which the department or the designated agency relied in making the determination. The court shall hold a hearing on the matter within fourteen days of the filing of the petition. The court shall give notice to the elderly person who is the subject of the petition at least five days prior to the date set for the hearing. The elderly person who is the subject of the petition shall have the right to be present, be represented by counsel, present evidence, and examine and cross-examine witnesses. If the elderly person who is the subject of the petition is indigent, the court shall appoint counsel to represent such elderly person. If the court determines that the elderly person lacks the capacity to retain counsel or waive the right to counsel, the court shall appoint a guardian ad litem to represent the interests of such elderly person. If, after hearing, the court determines, based on the preponderance of the evidence, that such elderly person has been abused, is in need of protective services and lacks the capacity to consent and no other person who is authorized to consent is available or willing to consent, the court may appoint a conservator, guardian or other person authorized to consent to the provision of protective services; provided, however, that the court shall establish the least restrictive form of fiduciary representation that will satisfy the needs of such elderly person. In addition to or in the alternative, the court may issue an order requiring the provision of services. The order shall contain a specific description of the services to be provided and insure that the least restrictive alternatives are utilized. An order for protective services for an elderly person pursuant to this subsection shall remain in effect for a period of six months, unless otherwise stipulated in such order. The court may, for good cause shown, extend an order for protective services. Such extension shall remain in effect for a period of six months, unless otherwise stipulated in such order.

(b) If an emergency exists and the department, its designated agency, a member of the immediate family or a caretaker has reasonable cause to believe that an elderly person is suffering from abuse and lacks the capacity to consent to the provision of protective services, said department, designated agency, member of the immediate family or caretaker may petition the court for an emergency order of protective services. The court shall give notice to the elderly person who is the subject of the petition at least twenty-four hours prior to the hearing. The court may dispense with notice upon finding that immediate and reasonable foreseeable physical harm to the individual or others will result from the twenty-four hour delay and that reasonable attempts have been made to give such notice. If the elderly person who is the subject of the petition is indigent, the court shall appoint counsel to represent such elderly person. If after the hearing, the court determines, based on the preponderance of the evidence, that the elderly person has been or is being abused, that an emergency exists, and that the elderly person lacks the capacity to consent to the provision of services, the court may order the provision of protective services on an emergency basis. The court shall order only those services necessary to remove the conditions creating the emergency and shall specially designate the authorized services in its order. If the court determines that the elderly person lacks the capacity to retain counsel or waive the right to counsel, the court shall appoint a guardian ad litem to represent the interest of such elderly person following the entry of such emergency order. The order for emergency protective services shall remain in effect for a period not to exceed fourteen days. Said order may be extended for an additional period not to exceed fourteen days if the court finds that the extension is necessary to remove the emergency.

(c) The court shall not order an institutional placement or change of residence unless it finds that no less restrictive alternative will meet the needs of the elderly person. No elderly person may be committed to a mental health facility pursuant to this chapter. The

elderly person or his or her court-appointed representative, the department, or the designated agency may petition to have any order issued pursuant to subsection (a) or (b) set aside or modified at any time.

Added by St.1982, c. 604, § 1. Amended by St.1987, c. 566, §§ 8 to 10.

1982 Enactment St.1982, c. 604, § 1, was approved Dec. 28, 1982. Emergency declaration by the Governor was filed Dec. 29, 1982.

1987 Legislation

St.1987, c. 566, § 8, approved Dec. 14, 1987, in the seventh sentence of subsec. (a), inserted "retain counsel or"; and in the eighth sentence, substituted "on the preponderance of the" for "upon clear and convincing".

Section 9 of St.1987, c. 566, in subsec. (a), added the last three sentences.

Section 10 of St.1987, c. 566, in subsec. (b), inserted the fourth sentence; in the fifth sentence, substituted "the preponderance of the" for "clear and convincing"; inserted the seventh sentence; in the eighth sentence, substituted "fourteen days" for "seventy-two hours"; and in the ninth sentence, substituted "period not to exceed fourteen days" for "seventy-two hour period".

§ 21. Geriatric evaluation process

(a) Subject to appropriation, the department shall establish a geriatric evaluation process for the purpose of conducting a comprehensive physical, mental, or social evaluation of an elderly person for whom a petition has been filed in a court for appointment of a conservator or guardian, under the provisions of clause (3) of section seventeen, or for an emergency order for protective services.

(b) The evaluation of an elderly person conducted by the geriatric evaluation process shall include at least the following:

(1) the name and address of the place where the person is residing and of the person or agency, if any, who is providing services at present;

(2) a description of the treatment and services, if any, presently being provided to the person;

(3) an evaluation of the person's present physical, mental, and social conditions; and

(4) a recommendation concerning the least restrictive course of services, care or treatment consistent with the person's needs.

(c) Subject to appropriation, the cost of this evaluation shall be borne by the department.

(d) Such elderly person shall have the right, at his own expense to secure an independent medical and psychological or psychiatric examination relevant to the issue involved in any hearing under this section and to present a report of his independent evaluation or the evaluator's personal testimony as evidence at the hearing.

Added by St.1982, c. 604, § 1.

1982 Enactment St.1982, c. 604, § 1, was approved Dec. 28, 1982. Emergency declaration by the Governor was filed Dec. 29, 1982.

§ 22. Financial eligibility guidelines; reimbursements by elderly persons

The department shall establish, by regulation, financial eligibility guidelines which provide a procedure for reimbursement by elderly persons for all or part of cost of protective services. If the department or the designated agency determines, pursuant to section eighteen, that an elderly person who is in need of protective services has sufficient resources to pay for part or all of the cost of protective services, it shall initiate said procedures for reimbursement. If the department or designated agency determines that an elderly person does not have sufficient resources, no reimbursement for any such costs shall be charged to the elderly person.

No elderly person shall be required to reimburse the department for part or all of the cost of protective services unless he or she has been notified prior to the commencement

of service provision that a reimbursement will be charged. No elderly person shall be required to reimburse the department for protective services before service provision commences.

Added by St.1982, c. 604, § 1.

1982 Enactment. St.1982, c. 604, § 1, was approved Dec. 28, 1982. Emergency declaration by the Governor was filed Dec. 29, 1982.

§ 23. Records; disclosure; destruction; regulations; penalties

(a) Except as otherwise provided in this section, all records containing personal data which are created, collected, used, maintained or disseminated pursuant to this chapter shall not be public records, and shall be governed by the provisions of chapter sixty-six A, the notice provisions of section sixty-three of chapter thirty and the enforcement provisions of section three B of chapter two hundred and fourteen.

(b) If the department, any designated agency, or any other agency obligated to make an assessment under this chapter determines that the allegations in a report cannot be substantiated, it shall within three months of such determination, either (i) destroy said report and any other records containing personal data created because of the receipt of said report or (ii) physically remove therefrom all personal identifiers; provided, however, that the department, the designated agency or any other agency obligated to make assessments may create and hold whatever statistical records it needs for purposes of planning and reporting, as may be prescribed by regulations adopted by the department pursuant to section two of chapter thirty. Each government agency shall promulgate regulations prescribing the manner of creating and holding its own such statistical records, and the department shall adopt such regulations for itself and any designated agency.

(c) The department, any designated agency, or any other agency obligated to make an assessment under this chapter shall inform in writing an individual, upon his request, whether he is a data subject, as that term is defined in section one of chapter sixty-six A, with respect to records created or maintained under this chapter, and if so, the department or agency shall make such data fully available to him or his authorized representative, upon his request, in a form comprehensible to him, unless doing so is prohibited or excused under the provisions of this or any other statute. In making any disclosure or information to a data subject the department or agency may remove personal identifiers relating to a third person, except where such third person is an officer or employee of a government or non-governmental department or agency obligated to make assessments under this chapter.

(d) Any agent or employee of the department, a designated agency, or any other agency obligated to make an assessment under this chapter who violates the provisions of chapter sixty-six A, as modified by this section, with respect to records created or maintained under this chapter shall be punished by a fine of not more than five hundred dollars, or, if harm shall have resulted to any one whose privacy was sought to be protected by the provision violated, by a fine of not more than one thousand dollars, and, if such agent or employee is employed by the commonwealth, he shall also be subject to administrative disciplinary action pursuant to regulations adopted by the department or agency under section two of chapter thirty A.

(e) No provision of chapter sixty-six A, section one hundred and thirty-five of chapter one hundred and twelve or this section relating to confidential data or confidential communications shall prohibit the department or designated agency from making reports to the district attorney under subsection (b) of section sixteen or subsection (a) of section eighteen, or from providing in such reports to the district attorney any information obtained by the department or a designated agency under section fifteen or section eighteen. No person providing notification or information to a district attorney or testimony in court pursuant to the provisions of this subsection shall be liable in any civil or criminal act by reason of such action.

Nothing herein shall be construed to limit the prosecutorial power of a district attorney.

No provision of chapter sixty-six A, section one hundred and thirty-five of chapter one hundred and twelve, or any other provision of law relating to confidential data or confidential communications shall prohibit the department, by its appropriate employees, or any designated protective services agency, by its appropriate employees from testifying in any judicial proceeding pursuant to subsections (a) and (b) of section twenty, chapter two hundred and one, or chapter two hundred and nine A where the employee has acquired the information which is the subject of his testimony while conducting an assessment in accordance with section eighteen. Such testimony shall not include the identity of the reporter of abuse under section fifteen.

Added by St.1982, c. 604, § 1. Amended by St.1987, c. 566, § 11.

1982 Enactment St.1982, c. 604, § 1, was **1987 Legislation**
approved Dec. 28, 1982. Emergency declaration St.1987, c. 566, § 11, approved Dec. 14, 1987,
by the Governor was filed Dec. 29, 1982. added subsec. (e).

§ 24. Reports

Within one hundred and twenty days following the end of each fiscal year, the department shall submit a report to the governor, the general court and the public which shall include a description of the activities of the department and all designated agencies pursuant to sections fourteen to twenty-seven, inclusive, during the preceding fiscal year. Said report shall contain statistical information about the number and types of reports received under section fifteen; the results of the assessments and evaluations conducted and the amount, type and costs of services provided under section eighteen; and information on the quality of services provided and the results of such services in terms of alleviating abuse. Said report shall identify problems that may arise in the implementation of this chapter and shall contain the recommendations of the department for action on the part of the legislature.

Added by St.1982, c. 604, § 1.

1982 Enactment St.1982, c. 604, § 1, was
approved Dec. 28, 1982. Emergency declaration
by the Governor was filed Dec. 29, 1982.

§ 25. Rules and regulations

The secretary shall adopt and from time to time revise rules and regulations for the implementation of the provisions of sections fifteen to twenty-four, inclusive.

Added by St.1982, c. 604, § 1.

1982 Enactment St.1982, c. 604, § 1, was
approved Dec. 28, 1982. Emergency declaration
by the Governor was filed Dec. 29, 1982.

§ 26. Powers and responsibilities of other departments or agencies

Nothing in this chapter shall be construed to be a limitation of the powers and responsibilities assigned by law to other departments or agencies.

Added by St.1982, c. 604, § 1.

1982 Enactment St.1982, c. 604, § 1, was
approved Dec. 28, 1982. Emergency declaration
by the Governor was filed Dec. 29, 1982.

§ 27. Definitions applicable to sections 27 to 35

For the purpose of sections twenty-seven to thirty-five, inclusive, the following words and terms shall, unless the context requires otherwise, have the following meanings:—

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Ninety

AN ACT PROTECTING ELDERLY PERSONS FROM FINANCIAL EXPLOITATION.

Be It enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 14 of chapter 19A of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after the word "person", in line 5, the words:- or financial exploitation of an elderly person.

SECTION 2. Said section 14 of said chapter 19A, as so appearing, is hereby further amended by inserting after the definition of "Emergency" the following definition:-

"Financial exploitation", an act or omission by another person, which causes a substantial monetary or property loss to an elderly person, or causes a substantial monetary or property gain to the other person, which gain would otherwise benefit the elderly person but for the act or omission of such other person; provided, however, that such an act or omission shall not be construed as financial exploitation if the elderly person has knowingly consented to such act or omission unless such consent is a consequence of misrepresentation, undue influence, coercion or threat of force by such other person; and, provided further, that financial exploitation shall not be construed to interfere with or prohibit a bona fide gift by an elderly person or to apply to any act or practice in the conduct of any trade or commerce declared unlawful by section two of chapter ninety-three A.

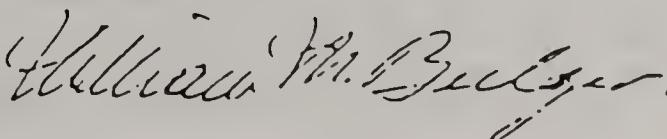
House of Representatives, June 26, 1990.

Passed to be enacted.

 Acting Speaker.

In Senate, June 29, 1990.

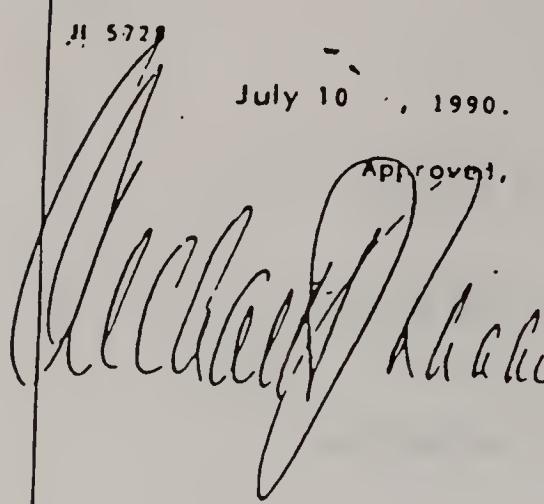
Passed to be enacted.

 President.

JL 5728

July 10, 1990.

Approval,


Michael D. Dukakis, Governor.

APPENDIX C
851 CMR: DEPARTMENT OF ELDER AFFAIRS

851 CMR 5.00: ELDER ABUSE REPORTING AND PROTECTIVE SERVICES PROGRAM

Section

- 6.01: Scope and Purpose
- 6.02: Definitions
- 6.03: Functions and Responsibilities of the Department in the Administration of the Elder Protective Services Program
- 6.04: Functions and Responsibilities of the Protective Services Agency in Carrying Out the Elder Protective Services Program
- 6.05: Designation of Protective Services Agencies
- 6.06: Termination of Designation
- 6.07: Availability of Funds
- 6.08: Reporting Process/Intake
- 6.09: Who Must Report
- 6.10: Contents of Reports
- 6.11: Screening of Reports
- 6.12: Screening Decisions
- 6.13: Notification to Protective Services Agencies of Reports
- 6.14: Assessment of Reports
- 6.15: Action Upon Finding No Reportable Condition Following Assessment
- 6.16: Conducting a Functional Evaluation
- 6.17: Financial Eligibility for Protective Services
- 6.18: Development of a Service Plan
- 6.19: Obtaining Consent for Protective Services
- 6.20: Implementation of Service Plan with Client's Consent
- 6.21: Actions When Consent Not Available
- 6.22: Actions If Client Lacks the Capacity to Consent/Emergency Report
- 6.23: Actions If Client Lacks the Capacity to Consent/Non-Emergency Report
- 6.24: Provisions Applicable to Petitions to the Court Under M.G.L. c. 19A, ss. 20(a) or 20(b)
- 6.25: Follow-Up and Reassessment of Protective Services Plan
- 6.26: Providing Documentation of Casework and Services
- 6.27: Reporting to District Attorneys and Time Frames For Reporting
- 6.28: Financial and Administrative Responsibilities of Protective Services Agencies Under the Protective Services Program
- 6.29: Privacy and Confidentiality Requirements
- 6.30: Non-Discrimination in Service Delivery
- 6.31: Non-Discrimination in Employment
- 6.32: Protection of Clients
- 6.33: Affirmative Action
- 6.34: Waivers
- 6.35: Annual Report

6.01: Scope and Purpose

851 CMR 5.00 is promulgated under the authority of M.G.L. c. 19A, ss. 18(d), 16(e), 18(a) and 22 (Chapter 604 of the Acts of 1982). 851 CMR 5.00 establishes criteria and procedures for the designation, redesignation, or termination of Protective Services Agencies designated by the Department, sets forth the basis for determining those instances in which a report of Abuse or neglect may or must be made to the Department or its designated Protective Services Agencies, specifies the manner in which reports must be made, specifies the action which must be taken in receiving, investigating, and otherwise responding to such reports, including the provision of Protective Services to Elderly Persons who are determined to be Abused.

Please note that reports of abuse of elderly persons in any infirmary maintained in a town, convalescent or nursing home, rest home, charitable home for the aged or intermediate care facility for the mentally retarded, as defined in M.G.L. c. 111, s. 71 shall continue to be made to the Department of Public Health pursuant to M.G.L. c. 111, ss. 72(F) - 72(L) and shall not be made to the Department of Elder Affairs under M.G.L. c. 19A, ss. 15 and 16.

5.02: Definitions

As used in 651 CMR 5.00, unless the context requires otherwise, these terms shall have the following meanings:

Abuse. An act or omission which results in serious physical or emotional injury to an elderly person; provided, however, that no person shall be considered to be abused or neglected for the sole reason that such person is being furnished or relies upon treatment in accordance with the tenets and teachings of a church or religious denomination by a duly accredited practitioner thereof.

Adult Day Care Services shall include Social Day Care Services and Adult Day Health Services. Adult Day Care Services provide an individualized program of social activities for Eligible Elderly persons who require daytime supervision because of physical impairment or social or emotional problems that impair their capacity for self-care. Activities of social day care include: assistance with walking; assistance with mealtime activities; assistance with grooming; nutrition services including a minimum of (1) meal per day which is of suitable quality and quantity and contains at least one-third (1/3) of the current daily Recommended Dietary Allowance (RDA) as established by the Food and Nutrition Board of the National Academy of Sciences, National Research Council, as appropriate for the elder's age group; special diets must be made available if indicated by a client's Home Care Service plan; morning and afternoon snacks should be available for clients at the day care center; and client activities, including planned recreational and social activities suited to the needs of participants and designed to encourage physical and mental exercise and stimulate social interaction. Adult Day Care Services must be provided by trained and supervised staff. Adult Day Health Services are services provided by Adult Day Health Programs approved for operation by the Department of Public Welfare, and operating in accordance with 106 CMR 404.000 *et seq.* and whose general goal is to provide an alternative to twenty-four (24) hour a day long term institutional care through an organized program of health care and supervision, restorative services, and socialization.

Capacity to Respond to an Emergency. The capacity of a Protective Services Agency to, in an Emergency, provide Protective Services Casework; complete an assessment of an abused elderly person within twenty-four (24) hours of the receipt of the report; provide or arrange for the provision of one or more other appropriate Protective Services to an elderly person suffering from a reportable condition to alleviate the immediate danger of abuse on an emergency basis, including but not limited to a petition to the Court for an emergency order of protective services pursuant to M.G.L. c. 19A, s. 20(b), where appropriate.

Caretaker. The person responsible for the care of an elderly person, which responsibility may arise as the result of a family relationship, or by a voluntary or contractual duty undertaken on behalf of an elderly person, or may arise by a fiduciary duty imposed by law.

(a) **Responsibility arising from a family relationship.** A husband, wife, son, daughter, brother, or sister, or other relative of an elderly person shall be presumed to be a caretaker if (s)he is living with the elderly person on a regular basis or is otherwise acting in the role of caretaker by providing substantial assistance to the elderly person which would lead a reasonable person to believe that (s)he is acting in the role of caretaker.

(b) **Responsibility arising from a fiduciary relationship imposed by law.** A Guardian of the person and estate of an elderly person appointed by the Probate Court pursuant to M.G.L. c. 201 shall be a caretaker. A conservator of an elderly person appointed by the Probate Court pursuant to M.G.L. c. 201, shall be caretaker of said elderly person to the extent that (s)he must apply the assets of the estate of the elderly person to provide the necessities essential for the physical, intellectual and emotional well-being of the elderly person. The attorney-in-fact, holding a power of attorney or durable power of attorney pursuant to M.G.L. c. 201B, shall be caretaker of the elderly person granting such a power to the extent that the power of attorney or durable power of attorney requires her/him to apply the assets of the elderly person to provide the necessities essential for the physical, intellectual and emotional well-being of the elderly person.

(c) **Responsibility arising from a contractual relationship.** A person who is responsible for the care of an elderly person and receives monetary or personal

5.02: continued

benefit or gains as a result of a bargained for agreement with the elderly person to act as a Caretaker shall be a caretaker. A homemaker, home health aide, case manager, visiting nurse or employee of a Homemaker Service Agency, Home Care Corporation or Agency, or Visiting Nurses Association shall not be a caretaker under this definition.

(d) Responsibility arising out of the voluntary assumption of the duties of Caretaker. A person who undertakes a voluntary duty of care for an elderly person shall be presumed not to be a caretaker unless one or more of the following criteria are met by the reputed caretaker:

1. The reputed caretaker is living in the household of the elderly person;
2. The reputed caretaker is related to the elderly person and (s)he has acted or is acting by providing substantial assistance or in such a manner as to lead a reasonable person to believe that (s)he is acting as a caretaker;
3. The care being rendered by the reputed caretaker is a permanent and not temporary duration in that the reputed caretaker maintains a physical presence in the household on a regular basis;
4. The elderly person by her/his actions, statements, or behavior, indicates reliance upon the reputed caretaker for care in such a manner that a reasonable person would believe that the reputed caretaker is being relied upon by the elderly person to care for her/him;
5. The reputed caretaker, by her/his actions, statements, or behavior, indicates voluntary assumption of the obligation of caretaker in such a manner that a reasonable person would believe that the reputed caretaker is being relied upon to care for the elderly person;

Comprehensive Needs Assessment Process (CNAP). An instrument, provided by the Department, designed to assess the physical, emotional, and social functioning of prospective and current clients; determine the specific needs of each client; and facilitate the development of an appropriate service plan.

Conservator. A person who is appointed to manage the estate of a person pursuant to M.G.L. c. 201.

Conservatorship Services. Services to be provided by an individual, public agency authorized by law, or non-profit corporation, within the meaning of I.R.C. s. 501(c)(3) (1954), as amended, whose corporate charter authorizes the corporation to act as a conservator of an elderly person pursuant to the provisions of M.G.L. c. 201, whether the disabilities of such elderly person are due to advanced age, physical incapacity, mental weakness, or mental retardation to the extent and for the duration determined by the Court. Such services shall be provided only to an elderly person who, as the result of an assessment and functional evaluation by a Protective Services Agency, has been determined to be suffering from a reportable condition; is in need of Conservatorship Services; has themselves or through the order of the Court consented to the provision of such services; and is otherwise eligible to receive such services. These services shall be provided in the best interest of the elderly person and shall include taking all actions necessary in seeking and accepting appointment as Conservator; making all financial decisions regarding the real and personal property of the elderly person within the limits of the order of the Court and the laws of the Commonwealth; representing such elderly person as attorney-in-fact in legal actions as permitted by law; and doing all things necessary and appropriate to properly discharge the duties and responsibilities arising out of each such appointment as Conservator.

Counseling Services. Communication with elderly persons intended to prevent or alleviate Abuse. Interaction between a Protective Services Caseworker or other qualified person and an Eligible Elderly Person and/or Abuser intended to prevent or alleviate abuse and/or the effects of abuse.

Court. The Probate and Family Court of the Commonwealth.

Data Subject. An individual to whom personal data refers. This term shall not include corporations, corporate trusts, or other similar entities.

5.02: continued

Department. The Department of Elder Affairs.

Designation Agreement. An agreement between the Department and the Protective Services Agency providing for designation of such agency as the Protective Services Agency for a Protective Services area, which provides for such Agency to provide one or more Protective Services either directly or through sub-contract with funding through the Department, or by interagency agreement, or by use of available existing services.

Elderly Person. An individual who is sixty (60) years of age or over.

Eligible Elderly Person. An elderly person who, as a result of an assessment and functional evaluation by a Protective Services Agency, has been determined to be suffering from a reportable condition, is in need of one or more Protective Services; has themselves or through the provisions of M.G.L. c. 19A, ss. 20(a) and 20(b) consented to the provision of one or more Protective Services; and is otherwise eligible to receive one or more of such services.

Emergency. A situation in which an elderly person is living in conditions which present a substantial risk of death or immediate and serious physical or mental harm.

Emergency Report. A written or oral report, received by the Department or Protective Services Agency, from which it is determined, through screening, that a situation in which an elderly person is living presents a substantial risk of death or immediate and serious physical injury or serious mental harm to the elderly person.

Emergency Shelter is a service designed to provide temporary overnight shelter for an Eligible Elderly Person, or an Eligible Elderly Person and his/her household, who are without a home due to eviction; fire, flood, or other natural disaster; abuse, neglect or alcohol or drug dependency; or economic incapacity and/or unsafe housing conditions, including lack of fuel and/or utilities as determined by the Home Care Corporation. Home Care Corporation funded Emergency Shelter may be provided for no more than fourteen (14) calendar days during a six (6) month period at a cost not to exceed an amount specified by the Department.

Foster Care is care through an Adult Foster Care Program to provide room, board, and personal care in a family-like setting to Eligible Elderly Persons who are at risk of institutional placement. These individuals, the foster families, and the Adult Foster Care Program provider must meet the requirements set forth by the Department of Public Welfare Medical Assistance Program in 106 CMR 433.477 et seq.

Guardian. A person who has qualified as a guardian of an elderly person pursuant to M.G.L. c. 201, but shall not include a guardian ad Litem.

Guardianship Services. Services to be provided by an individual, public agency authorized by law or non-profit corporation, within the meaning of I.R.C. s. 501(c)(3) (1954), as amended, whose corporate charter authorizes the corporation to act as a guardian of an elderly person with disabilities pursuant to the provisions of M.G.L. c. 201, whether the disabilities of such an elderly person are due to mental illness, or mental retardation, to the extent and for the duration determined by the Court. Such services shall be provided only to an elderly person who, as the result of an assessment and functional evaluation by a Protective Services Agency, has been determined to be suffering from a reportable condition; is in need of Guardianship Services; lacks the capacity to consent to the provision of these services, and no other person who is authorized to consent is available or willing to consent; has no family or other person available or willing to serve in the capacity of guardian; and is otherwise eligible to receive such services. These services shall be provided in the best interests of the elderly person and shall include taking all actions necessary in seeking and accepting appointment as guardian, and shall include making personal care,

5.02: continued

medical and financial decisions for the elderly person within the limits of the order of the Court and the laws of the Commonwealth; representing such elderly person as attorney-in-fact in legal actions as permitted by law; and doing all things necessary and appropriate to properly discharge the duties and responsibilities arising out of each such appointment as guardian.

Holder. The Department and each Protective Services Agency which collects, uses, maintains or disseminates personal data as a result of performing a governmental or public function or purpose under M.G.L. c. 19A, ss. 14 - 26. Each Protective Services Agency is a Holder and subject to the provisions of 651 CMR 5.00 only with respect to personal data held under contract or arrangement with the Department under the Elder Protective Services Program.

Home Care Corporation. That unit of a designated area agency on aging charged with responsibility for the home care program; an independent Home Care Corporation organized under M.G.L. c. 180, or any other agency or organization which is supported by funds available through the Department to assure provision of home care services to elderly persons, within a designated planning and service area in the Commonwealth. A Home Care Corporation performs case management and information and referral services under the Home Care Program. A majority of the governing body of the Home Care Corporation shall be persons sixty years of age or older who reside in the cities or towns served by said Corporation. A majority of the governing body of the Home Care Corporation, except those serving the City of Boston, shall be appointed by the Councils of Aging of the cities and towns served by the Corporation. Other requirements for a Home Care Corporation are set forth in M.G.L. c. 19A, s. 4(c).

Home Health Aide Services. The provision of personal care in the home under the supervision of a registered nurse, or, if appropriate, a physical, speech, or occupational therapist. Home Health Aide Services are performed by trained personnel who assist Eligible Elderly Persons in following physicians' instructions and established plans of care. Additional services include, but are not limited to, assisting the patient with activities of daily living, exercising, taking medications ordered by a physician which are ordinarily self-administered, assisting the patient with necessary self-help skills, and reporting to the professional supervisor any changes in the patient's condition or family situation.

(a) Nursing Services. Service provided by a registered nurse, licensed practical nurse, or a nursing student under the supervision of a registered nurse, including, but not limited to the following: evaluating the nursing care needs; developing and implementing a nursing care plan; providing services that require specialized skills; observing signs and symptoms; reporting to the physician; initiating nursing procedures; giving treatments and medications ordered by the physician; teaching the patient and family, and may also include supervising other personnel.

(b) Occupational Therapy. Service provided by a registered occupational therapist (O.T.R.), a certified occupational therapy assistant (COTA), or an occupational therapy student which is supervised by a registered occupational therapist including: evaluating patient's level of function; applying diagnostic and prognostic procedures; teaching activities of daily living; observing and reporting to the physician; instructing the patient, family and health team personnel, and may also include supervising other personnel.

(c) Physical Therapy. Service provided by a registered physical therapist (R.P.T.); a physical therapy assistant (P.T.A.), or a physical therapy student which is supervised by a registered physical therapist including: evaluating patient care needs; treating patient with active and passive exercises; using specialized equipment such as packs, vibrators, etc; observing signs and reporting symptoms to the physician; instructing patient, family, and health team personnel in the use of braces, other equipment and modalities, and may also include supervising other personnel.

(d) Speech Therapy. Service provided by a qualified speech therapist, a speech therapy assistant, or a speech therapy student which is supervised by a qualified speech therapist including: evaluating patient care needs; providing rehabilitating services for speech and language disorders; observing and reporting to the physician; instructing patient, family and health care team

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personnel, and may also include supervising other personnel.

The Home Care Corporation shall identify appropriate clients for Home Health Services and shall make referral of such clients to the Certified Home Health Agency. A registered nurse from a Certified Home Health Agency shall complete a nursing assessment to determine the type, amount, and frequency of Home Health Services needed. A health service care plan shall be developed in coordination with the client's comprehensive service plan. The Home Care Corporation Case Manager, registered nurse, and the Certified Home Health Agency registered nurse shall agree on the integrated service plan prior to the authorization of Home Health Services. Monitoring the coordination of the home health care plan with the client's comprehensive service plan shall be the responsibility of the Home Care Corporation. The financial management of Home Health Services shall be the responsibility of the Home Care Corporation. Home Health Services shall be authorized for a maximum of six (6) months and ten (10) business days.

Homemaker Service. Homemaker Service is designed to help maintain household functioning when a Family's or eligible Elderly Person's life is threatened with disruption by long or short term illness, disability, social maladjustment, or problems which require assistance in the home to sustain independent living. Homemaker Service is concerned primarily with home management and assistance with activities of daily living and instrumental activities of daily living for a person who has a multiplicity of needs. For Homemaker Service to be authorized, an Eligible Elderly Person must have a need for one or more of the stated activities, except in the case of socialization which can only be provided in conjunction with one or more other activities. The service requires trained personnel working under agency supervision. Activities are limited to the following: shopping, menu planning, and meal preparation including special diets; light housekeeping, including but not limited to vacuuming, laundry, dusting, dry mopping, dishwashing, cleaning the kitchen and bathroom, changing beds; training in home management skills; socialization; and personal care services as defined below:

Personal care services refers to activities designed to assist functionally impaired clients to remain at home. The activities performed to assist the client may include the following: bathing, dressing, and grooming (hair care: shampoo and combing); foot care, excluding nail cutting; assistance with dentures; shaving (limited to shaving with an electric razor); assisting with bedpan routines; assisting with eating; assisting with ambulating; and assisting with transfers (excluding transfers if the Client is totally dependent).

All personal care tasks must be reviewed and approved by the Home Care Corporation Registered Nurse.

Legal Assistance. Legal advice and representation provided to an eligible elderly person by an attorney in civil matters (and to the extent feasible, counseling and other appropriate assistance by a paralegal, or law student under the supervision of an attorney), including counseling or representation by a non-lawyer where permitted by law, to Elderly Persons who are determined to be abused.

Mandated Reporter Subject to Fine. Any physician, medical intern, dentist, nurse, family counselor, probation officer, social worker, policeman, firefighter, emergency medical technician, licensed psychologist, registered physical therapist, registered occupational therapist, osteopath, podiatrist, executive director of a licensed home health agency or executive director of a homemaker service agency who has Reasonable Cause to Believe that an Elderly person is suffering from or has died as a result of a Reportable Condition.

Mandated Reporter Not Subject to Fine. Any executive director of a Home Care Corporation who has reasonable cause to believe that an elderly person is suffering or has died as the result of a reportable condition. Any homemaker, home health aide, case manager or other staff of a Home Care Corporation, licensed home health agency, or homemaker service agency who is not a licensed social worker, nurse, licensed psychologist, or family counselor, who has reasonable cause to believe that an elderly person is suffering, or has died from a

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reportable condition, shall be included in this category. Those occupations set forth in the previous sentence shall report such case to the executive director of the Home Care Corporation or agency.

Nutrition Project. An organization which is the recipient of a grant from an area agency on aging to provide Nutrition Services or which has the administrative authority under contract to provide Nutrition Services under Title III-C of the Older Americans Act, as amended.

Nutrition Services. Those federally funded services to be provided by Nutrition Projects to eligible elderly persons under Title III-C of the Older Americans Act, as amended, and those services provided to eligible elderly persons under the statefunded nutrition program in which certain funded costs to sponsoring agencies are paid through the Department. These services shall include, but not be limited to, congregate meals (a meal provided in a congregate setting to eligible elderly persons which meet the requirements set by the Department in 651 CMR 4.06) and home delivered meals (a meal which is furnished by a sponsoring agency to an eligible elderly person who is homebound by reason of illness, incapacitating disability, or isolation which meets the requirements set by the Department in 651 CMR 4.06).

Personal Data. Any information concerning an individual which, because of identifying number, mark or description, can be readily associated with a particular individual; provided, however, that such information is not contained in a Public Record, as defined in M.G.L. c. 4, s. 7, clause 26. Personal data shall not include intelligence information, evaluative information or criminal offender record information as defined in M.G.L. c. 6, s. 167.

Personal Data System. A system of records operated by the Department and each Protective Services Agency, which system is organized such that data are retrievable by use of the identity of the Data Subject.

Protected Person. An elderly person for whom a protector, conservator or guardian has been appointed or other protective order has been made.

Protective Order Through the Court. An order of the Court sought by petition under M.G.L. c. 19A, ss. 20(a) or (b) for the provision of one or more Protective Services for an Elderly person who is suffering from abuse, lacks the capacity to consent to such services, or requires the determination of his/her capacity to consent to such services, and as the result of a report of abuse, and subsequent assessment, evaluation, and service plan developed by the Protective Services Agency is determined to be in need of such Protective Services. A Protective Order may be sought through the Court to conduct an assessment and functional evaluation in cases where a Protective Services Agency has reasonable cause to believe that access to the allegedly abused elderly person has been barred by any person other than such allegedly abused elderly person.

Protective Services. Services which are necessary to prevent, eliminate or remedy the effects of abuse to an elderly person. Subject to appropriation, these services shall include, but not be limited to, the following: the Capacity to Respond to an Emergency, Protective Services Case Work, Legal Assistance, Counseling, Guardianship and Conservatorship, Protective Order Through the Court, the capacity to provide or arrange for Homemaker, Home-Health Aide, Transportation, Nutrition Services, Emergency Shelter, Foster Care, and Adult Day Care Services.

Protective Services Agency. A public or nonprofit private agency, corporation, board, or organization designated by the Department pursuant to M.G.L. c. 19A, s. 16 to furnish Protective Services to an eligible elderly person.

Protective Services Casework. Services provided to an elderly person by a Protective Services Agency including: conducting an assessment to determine if an elderly person is suffering from abuse; developing an evaluation of the elderly

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person's functional capacity, situation and resources; developing a service plan; providing or arranging for protective services to an eligible elderly person with her/his consent or with consent established in accordance with the provisions of M.G.L. c. 19A, ss. 20(a) or 20(b); providing information and referral to appropriate agencies; having the capacity to respond to an emergency; and providing counseling to elderly persons regarding the alleviation or prevention of abuse and availability of services.

Protective Services Caseworker. An employee of a Protective Services Agency who performs intake and/or assessment, functional evaluation and service planning under the Elder Protective Services Program.

Protective Services Program. The system of reporting of abuse of elderly persons and provision of Protective Services authorized to be carried out by the Department pursuant to M.G.L. c. 19A, ss. 14 – 26, subject to appropriation.

Public Records. Any document made or received by an officer or employee of the Commonwealth or of any authority established by the General Court to serve a public purpose unless it falls within the exceptions contained in M.G.L. c. 4, s. 6, clause 26.

Reasonable Cause to Believe. A basis for judgment that rests on specific facts, either directly observed or obtained from reliable sources, that supports a belief that a particular event probably took place or a particular condition probably exists.

Reportable Condition.

- (a) **Acts.** Acts include either or both of the following:
 - 1. **Physical Abuse:** The non-accidental infliction of serious physical injury to an elderly person.
 - 2. **Emotional Abuse:** The non-accidental infliction of serious emotional injury to an elderly person.
- (b) **Omissions.** Omissions include the following:
 - Neglect:** The failure or refusal by a caretaker to provide one or more of the necessities essential for physical, intellectual, and emotional well-being, such as food, clothing, shelter, social contact, personal care, and medical care, which results in serious physical or emotional injury to an elderly person.

Serious Abuse. Reportable conditions to be reported to the District Attorney pursuant to M.G.L. c. 19A, s. 18(a) shall include, but not be limited to, the following:

- (a) Death;
- (b) Brain damage;
- (c) Loss or substantial impairment of a bodily function or organ;
- (d) Substantial disfigurement;
- (e) Rape, sexual misuse or sexual exploitation.

Serious Emotional Injury. An extreme emotional condition such as a severe state of anxiety, fear, depression or withdrawal, development of post traumatic syndrome, including but not limited to symptoms resulting from being forced to engage in sexual relations by force, threat of force or duress.

Serious Physical Injury.

- (a) Death, or
- (b) Fracture of a bone; extensive skin bruising; nontrivial bleeding; unreasonable decubiti; puncture wound; impairment of any system or organ; symptoms resulting from the use of medications or chemical restraints which harm the elderly person; and any other non-trivial injury including malnutrition and dehydration.

Transportation Services. Services designed to transport eligible elderly persons to and from community facilities (such as senior centers and nutrition sites), and community organizations for the purpose of socialization or applying

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for and receiving services, shopping, and for non-medical emergencies. Transportation Services include provision of public, private para-transit, or other forms of transportation not otherwise available pursuant to the Medicare or Medicaid programs.

5.03: Functions and Responsibilities of the Department in the Administration of the Elder Protective Services Program

- (1) The Department shall, subject to appropriation, maintain a state-wide system to receive reports of the abuse of elderly persons, which shall be accessible on a twenty-four (24) hour per day basis. Further, the Department shall, subject to appropriation, develop a coordinated system of Protective Services for elderly persons suffering from a reportable condition(s) pursuant to M.G.L. c. 19A, s. 16.
- (2) General Responsibilities of the Department. Subject to appropriation, the general responsibilities of the Department under the Protective Services Program shall include, but not be limited to the following:
 - (a) Establish a mechanism to receive reports of abuse of elderly persons on a twenty-four (24) hour per day basis.
 - (b) Designate, redesignate and terminate Protective Services Agencies;
 - (c) Continually coordinate and supervise the Protective Services Program;
 - (d) Adopt rules and regulations for the Protective Services Program;
 - (e) Continuously monitor the effectiveness of the Protective Services Program and conduct evaluative research about it;
 - (f) Utilize grants from federal, state, and other public and private sources to support the Protective Services Program;
 - (g) Screen reports of abuse of elderly persons received and refer cases to Protective Services Agencies for assessment, functional evaluation, and implementation of a service plan, where appropriate;
 - (h) Seek protective orders through the Court, where appropriate;
 - (i) Contract with Protective Services Agencies and other organizations and individuals, as appropriate, to implement the Protective Services Program;
 - (j) Appoint regional supervisors who shall provide monitoring, technical assistance, training, clinical advising, and assistance in responding to an emergency;
 - (k) Perform all other functions necessary for the administration of the Protective Services Program.

5.04: Functions and Responsibilities of the Protective Services Agency in Carrying Out the Protective Services Program

- (1) Subject to appropriation, the general responsibilities of the Protective Services Agency shall include, but not be limited to, the following:
 - (a) Receive reports of abuse of elderly persons directly from mandated reporters subject to fine, mandated reporters not subject to fine, other persons, and the Department;
 - (b) Screen such reports to determine whether there is reasonable cause to believe that an elderly person is suffering from or has died from abuse, and determine whether the case is an emergency or non-emergency situation;
 - (c) Forward a copy of each intake form to the Department within forty-eight (48) hours of receipt of each report;
 - (d) Where an emergency exists, have the capacity to respond to an emergency; if no reportable condition is found, and if services are needed or requested, refer the elderly person to an appropriate agency(s);
 - (e) In a non-emergency, conduct and complete an assessment of the allegedly abused elderly person within seven (7) calendar days of receiving the report. The assessment shall include a visit to the residence of the elderly person who is the subject of the report and consultation with appropriate service agencies and individuals who have knowledge of the elderly person's situation. If no reportable condition is found, and if services are needed or requested, refer the elderly person to an appropriate agency(s);
 - (f) Where an assessment results in a finding that a reportable condition exists, complete an evaluation of the person's functional capacity, situation, and resources and develop a service plan for the provision of Protective Services which is:

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1. appropriate to the needs of the elderly person; and
2. utilizes the least restrictive service alternative(s);

(g) Determine the financial eligibility of the abused elderly person for purposes of collecting a sliding fee for the provision of certain Protective Services, other than Protective Services Casework, funded through the Department;

(h) If informed consent can be obtained from an elderly person suffering from a reportable condition, implement the service plan for the provision of one or more Protective Services;

(i) If informed consent for provision of Protective Services cannot be obtained due to the lack of capacity to consent by the elderly person, petition directly for a protective order through the Court pursuant to M.G.L. c. 19A, s. 20(a); provide Protective Services as ordered by the Court;

(j) Have the capacity to directly provide Protective Services Casework (including counseling);

(k) Provide or arrange for an evaluation of the capacity to consent to one or more Protective Services for an abused Elderly Person for whom a petition has been filed, or will be filed, for a Protective Order through the Court pursuant to M.G.L. c. 19A, ss. 20(a) or 20(b), or for an evaluation of mental competency and/or physical incapacity prior to petitioning for a Guardianship or Conservatorship.

(l) Report determinations of Serious Abuse to the District Attorney of the County where the abuse occurred within forty-eight (48) hours of such determination. As a result of an assessment, the Agency may, in its discretion, report threats of Serious Abuse to the District Attorney, in the same manner as determinations of Serious Abuse set forth above, where the Agency has reasonable cause to believe that the perpetrator may have the intent and capacity to carry out the threatened Serious Abuse. The Protective Services Agency and its employees shall be subject to the protections against civil or criminal liability by reason of providing notification or information to a District Attorney, or testimony in Court by reason of such report as set forth in M.G.L. c. 19A s. 23(e).

(m) Report cases in which there is reasonable cause to believe that an Elderly person has died as the result of abuse immediately to the District Attorney of the County where the abuse occurred, and to the Department.

(n) Provide or arrange for the provision of Protective Services or other services where available and in accordance with the service plan with consent of the elderly person, or upon the order of the Court pursuant to M.G.L. c. 19A, ss. 20(a) or 20(b);

(o) Contract with the Department, and other organizations and individuals, as appropriate, to implement and maintain the Protective Services Program;

(p) Perform all other functions determined by the Department to be necessary for the administration of the Protective Services Program;

(q) Comply with regulations developed by the Department to implement and maintain the Protective Services Program.

5.05: Designation of Protective Services Agencies

(1) Types of Agencies that May Be Designated. The Department may designate as a Protective Services Agency any public agency or private non-profit organization which has the capacity to implement a service plan through access to social, health and mental health services. The Department and the Protective Services Agency shall cooperate in utilizing resources and services of public and non-profit private agencies in providing Protective Services. A Protective Services Agency may be an agency whose single purpose is to administer programs for elderly persons or a multi-purpose agency with the ability and capacity to carry out the Protective Services Program.

(2) Procedures Prior to Designation. Prior to designating a Protective Services Agency, the Department may, in its discretion:

- (a) Consider the views of the unit(s) of general purpose local government and area agency on aging within the Protective Services area regarding the capacity of the bidding agency or organization to carry out the responsibilities of the Protective Services Program;
- (b) Conduct an on-site assessment to determine whether the Protective Services Agency or organization which is being considered has the capacity to

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perform all of the functions of a Protective Services Agency under the Protective Services Program;

(c) Designate a Protective Services Agency to serve more than one Protective Services area if, in its judgment, no agency or organization is qualified to serve as the Protective Services Agency in a given area.

(3) Method and Duration of Designation. The Department shall designate Protective Services Agencies for a maximum period of three (3) years. Each designation may be reviewed at least annually. Designation will be made by a letter signed by the Secretary which shall accompany the written agreement between the Department and the Protective Services Agency. The Protective Services Agency may not delegate to another agency the authority to award or administer Protective Services funds under this designation.

(4) Protective Services Geographic Areas. The Department shall designate at least one public agency or private non-profit organization to act on behalf of the Department as a Protective Services Agency for a Protective Services area. There shall be twenty-seven (27) Protective Services areas including the following cities and towns.

Cities and Towns Covered:

Region IA

Adams, Alford, Becket, Cheshire, Clarksburg, Dalton, Egremont, Florida, Great Barrington, Hancock, Hinsdale, Lanesborough, Lee, Lenox, Monterey, Mount Washington, New Ashford, New Marlborough, North Adams, Otis, Peru, Pittsfield, Richmond, Sandisfield, Savoy, Sheffield, Stockbridge, Tyringham, Washington, West Stockbridge, Williamstown, Windsor

Region IB

Ashfield, Athol, Bernardston, Buckland, Charlemont, Colrain, Conway, Deerfield, Erving, Gill, Greenfield, Hawley, Heath, Leverett, Leyden, Monroe, Montague, New Salem, Northfield, Orange, Petersham, Phillipston, Rowe, Royalston, Shelburne, Shutesbury, Sunderland, Warwick, Wendell, Whately

Region IC

Amherst, Blandford, Chester, Chesterfield, Cummington, Easthampton, Goshen, Granville, Hadley, Hatfield, Huntington, Middlefield, Montgomery, Northampton, Pelham, Plainfield, Russell, Southampton, Southwick, Tolland, Westfield, Westhampton, Williamsburg, Worthington

Region ID

Belchertown, Chicopee, Granby, Holyoke, Ludlow, South Hadley, Ware

Region IE

Agawam, Brimfield, East Longmeadow, Hampden, Holland, Longmeadow, Monson, Palmer, Springfield, Wales, West Springfield, Wilbraham

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Region IIA

Ashburnham, Ashby, Ayer, Berlin, Bolton, Clinton, Fitchburg, Gardner, Groton, Hubbardston, Lancaster, Leominster, Lunenburg, Pepperell, Princeton, Shirley, Sterling, Templeton, Townsend, Westminster, Winchendon

Region IIB

Auburn, Barre, Boylston, Grafton, Hardwick, Holden, Leicester, Millbury, New Braintree, Oakham, Paxton, Rutland, Shrewsbury, West Boylston, Worcester

Region IIC

Bellingham, Blackstone, Brookfield, Charlton, Douglas, Dudley, East Brookfield, Franklin, Hopedale, Medway, Mendon, Milford, Milville, Northbridge, North Brookfield, Oxford, Southbridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Warren, Webster, West Brookfield

Region IIIA

Beverly, Essex, Gloucester, Hamilton, Ipswich, Manchester, Rockport, Topsfield, Wenham

Region IIIB

Danvers, Marblehead, Middleton, Peabody, Salem

Region IIIC

Lynn, Lynnfield, Nahant, Saugus, Swampscott

Region IIID

Chelsea, Revere, Winthrop

Region IIIE

Everett, Malden, Medford, Melrose, North Reading, Reading, Stoneham, Wakefield

Region IIIF

Cambridge, Somerville

Region IIIG

Acton, Arlington, Bedford, Boxborough, Burlington, Carlisle, Concord, Harvard, Lexington, Lincoln, Littleton, Maynard, Stow, Wilmington, Winchester, Woburn

Region IIIH

Belmont, Brookline, Needham, Newton, Waltham, Watertown, Wellesley, Weston

Region IIJ

Ashland, Dover, Framingham, Holliston, Hopkinton, Hudson, Marlborough, Natick, Northborough, Sherborn, Southborough, Sudbury, Wayland, Westborough

Region IIIK

Clinton, Dedham, Foxborough, Medfield, Millis, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood, Wrentham

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Region III

Braintree, Cohasset, Hingham, Holbrook, Hull, Milton, Norwell, Quincy, Randolph, Scituate, Weymouth

Region IV A

Abington, Avon, Bridgewater, Brockton, Carver, Duxbury, East Bridgewater, Easton, Halifax, Hanover, Hanson, Kingston, Lakeville, Marshfield, Middleboro, Pembroke, Plymouth, Plympton, Rockland, Stoughton, Wareham, West Bridgewater, Whitman

Region IV B

Attleboro, Berkley, Dighton, Fall River, Freetown, Mansfield, North Attleboro, Norton, Raynham, Rehoboth, Seekonk, Somerset, Swansea, Taunton, Westport

Region IV C

Achusnet, Dartmouth, Fairhaven, Gosnold, Marion, Mattapoisett, New Bedford, Rochester

Region IV D

Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Eastham, Edgartown, Falmouth, Gay Head, Harwich, Mashpee, Nantucket, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, Wellfleet, West Tisbury, Yarmouth

Region V

Amesbury, Andover, Billerica, Boxford, Chelmsford, Dracut, Dunstable, Georgetown, Groveland, Haverhill, Lawrence, Lowell, Merrimack, Methuen, Newbury, Newburyport, North Andover, Rowley, Salisbury, Tewksbury, Tyngsborough, Westford, West Newbury

Region VI A

Hyde Park, South Jamaica Plain, Roslindale, West Roxbury, West Mattapan

Region VI B

Allston, Back Bay, Brighton, Fenway, Jamaica Plain, North Dorchester, Parker Hill, Roxbury, South End

Region VI C

Beacon Hill/West End, Charlestown, Chinatown, Columbia Point, Dorchester, East Boston, East Mattapan, North End, South Boston.

5.06: Termination of Designation

(1) Termination for Convenience. Either party may terminate a designation agreement without cause upon provision of written notice to the other at least sixty (60) calendar days before the effective date of such termination.

(2) Termination for Cause.

(a) In the event that either party fails to comply with the provisions of the designation agreement in whole or in part, the other party may, after specifying any alleged breach, default, or non-compliance in writing to the other party and after allowing a reasonable time, but not less than fifteen (15) calendar days for correction thereof, terminate the designation agreement by sending written notice of termination which specifies the reasons for termination to the other party, at least fifteen (15) calendar days prior to the effective date of termination.

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(b) If the Department determines that any non-compliance with the terms of the designation agreement on the part of the Protective Services Agency endangers life, health, and safety of recipients or applicants for services under the designation agreement, it shall terminate the designation agreement by orally notifying the Protective Services Agency of termination followed by the mailing of written notification, return receipt requested, setting forth the reasons for termination within seven (7) calendar days following the oral notification. Termination pursuant to this subsection shall take effect upon the oral notification.

(3) Continuity of Services.

- (a) Upon termination of a designation agreement the Department shall designate a new Protective Services Agency in a timely manner;
- (b) If necessary to ensure continuity of Protective Services in a Protective Services region, the Department may do the following for a period of up to one hundred and eighty (180) days following termination of designation:
 - 1. Assign the responsibilities of the Protective Services Agency to another agency or organization;
 - 2. Extend the agreement with the terminating agency;
 - 3. Perform the responsibilities of the Protective Services Agency.

5.07: Availability of Funds

In the event that funding to the Department by state appropriation for payment for services covered pursuant to the designation agreement is reduced or terminated by the General Court of the Commonwealth of Massachusetts, so as to prevent the continued funding of all service contracts entered into under the appropriation item governing the designation agreement, the Department may terminate the designation agreement on the provision of written notice containing a specification of the reasons for termination at least thirty (30) days prior to the effective date of such termination.

5.08: Reporting Process/Intake

(1) The Department shall establish a state-wide telephone system whereby reports of alleged abuse of elderly persons shall be received on a twenty-four (24) hour per day, seven (7) day per week basis.

(2) Each Protective Services Agency shall have the capacity to receive reports of abuse.

(3) If not received during regular business hours, reports of abuse received by the Department or the Department's twenty-four (24) hour per day designee(s) shall, depending upon the judgment of the Department, be forwarded to the appropriate Protective Services Agency immediately upon receipt or the commencement of the next regular business hours of the Protective Services Agency.

(4) Oral reports received by the Department or the Department's twenty-four (24) hour per day designee(s) shall also be transcribed onto a form provided by the Department. Such form shall contain the information required in 651 CMR 5.10, and shall be forwarded to the appropriate designated Protective Services Agency as soon as possible.

(5) Reports of abuse received by a Protective Services Agency shall be transcribed onto a form provided by the Department (if not received in such a manner) and shall contain the information required in 651 CMR 5.10.

(6) Written information submitted by the reporter of Abuse to the Department, the Department's twenty-four (24) hour per day designee(s), or any Protective Services Agency shall be submitted to the appropriate Agency as soon as possible after its receipt. Such information shall be transcribed onto the form provided by the Department and become part of the case file.

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(7) The Protective Services Agency or the Department's twenty-four (24) hour per day designee(s) shall forward a copy of the intake form to the Department within forty-eight (48) hours of their receipt of the report.

(8) At the time the report is received, the Department, the Department's twenty-four (24) hour per day designee(s) or Protective Services Agency shall advise the person reporting as follows:

(a) That if they are a mandated reporter as defined in 651 CMR 5.02 they must forward a written statement of their report of abuse to the agency to which the report was made within forty-eight (48) hours after making the verbal report;

(b) That their report is confidential and is subject to state laws and regulations regarding privacy and confidentiality;

(c) Mandated reporters subject to fine shall be informed that they will be notified in writing of the action taken in response to the report within forty-five (45) calendar days of the report. Other reporters shall be notified only upon their request. This notice shall include the following information:

1. Whether or not the information in the report constituted a reportable condition;

2. Whether or not an assessment was completed;

3. The name, address and telephone number of the Protective Services Agency conducting the assessment.

5.09: Who Must Report

(1) Mandated Reporters Subject to Fine. Mandated reporters subject to fine, as defined in 651 CMR 5.02 herein, who have reasonable cause to believe that an elderly person is suffering from or has died as a result of Abuse shall immediately make a verbal report of such information or cause a report to be made to the Department or Protective Services Agency. Such person shall within forty-eight (48) hours make a written report to the appropriate Protective Services Agency. Executive directors of licensed home health agencies and Homemaker Service agencies shall establish procedures whereby reports of alleged Abuse of an Elderly Person are forwarded to them by staff as soon as possible after they are received. Such procedures shall be in writing.

(2) Mandated Reporter Not Subject to Fine. Mandated Reporters Not Subject to Fine, as defined in 651 CMR 5.02 herein, who have reasonable cause to believe that an elderly person is suffering or has died from abuse shall report such case to the executive director of their agency. The executive director shall immediately make a verbal report of such information or cause a report to be made to the Department, the Department's twenty-four (24) hour per day designee(s) or the appropriate Protective Services Agency. Such person shall within forty-eight (48) hours make a written report to the appropriate Protective Services Agency.

(3) Other Reporters. Any other person who has reasonable cause to believe that any elderly person is suffering or has died from abuse may make such a report to the Department, the Department's twentyfour (24) hour per day designee(s), or its Protective Services Agency.

(4) Liability and Retribution Against Reporters.

(a) No employee or supervisor may discharge, demote, transfer, reduce pay, benefits, or work privileges, prepare a negative work performance evaluation, or take any other action detrimental to an employee or supervisor who files a report in accordance with the provisions M.G.L. c. 19A, ss. 15(a), 15(b), or 15(c), by reason of such report.

(b) No Mandated Reporter Subject to Fine shall be liable in any civil or criminal action by reason of such report; provided however, that such person did not perpetrate, inflict or cause said abuse.

(c) No Mandated Reporter Not Subject to Fine or other reporter of alleged abuse of an Elderly person shall be liable in any civil or criminal action by reason of such report if it was made in good faith; provided however, that such person did not perpetrate, inflict or cause said abuse.

(d) Any person making a report of abuse, pursuant to M.G.L. c. 19A, ss. 15 (a)(b) or (c) who in the determination of the Department or the

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District Attorney of the County where the abuse occurred may have perpetrated, inflicted, or caused said abuse may be liable in a civil or criminal action by reason of such report.

(5) The existence of a social worker-client privilege or patient-psychotherapist privilege relating to the exclusion of confidential communications shall not prohibit the filing of a report by persons subject thereto pursuant to the provisions of 651 CMR 5.09 (4)(a),(b) or (c).

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5.10: Contents of Reports

Each oral and written report shall contain the following information, if known:

- (1) The date and time of the report, and of the alleged abuse;
- (2) The allegedly abused elderly person's
 - (a) Name;
 - (b) Current address;
 - (c) Permanent address if different from above;
 - (d) Approximate age or date of birth;
 - (e) Present whereabouts;
 - (f) Sex;
 - (g) The names, addresses, and telephone numbers of the Elderly Person's Caretaker; or close relatives, if known;
 - (h) The language spoken by the elderly person;
 - (i) Information regarding the nature and extent of abuse;
 - (j) Any indication of prior injury(ies), abuse or neglect and, if available, date(s) and time(s) of incident(s);
 - (k) Whether in the belief of the reporter, the situation reported is one in which the elderly person is living in conditions which present a substantial risk of death or immediate and serious physical injury or serious mental harm;
 - (l) Any medical treatment being received or immediately required, if known;
 - (m) The name, address, and telephone number of the reporter, where they can be contacted and their relationship to the alleged abused elderly person if the reporter wishes to provide said information;
 - (n) The circumstances under which the person reporting first became aware of the alleged abuse;
 - (o) The action taken by the reporter, if any, to assist the abused elderly person;
 - (p) A determination of whether the reporter is a Mandated Reporter as defined in 651 CMR 5.02(24) and 5.02(25) herein; and
 - (q) Any other information the reporter believes to be relevant to the investigation.
- (3) If known, the name, address and current whereabouts of the alleged Abuser and her/his relationship to the allegedly abused elderly person.

5.11: Screening of Reports

- (1) Upon receipt of an oral or written report (whichever is received first) the intake worker shall screen the report to determine the appropriate initial response. The purpose of screening is to determine:
 - (a) Whether there is reasonable cause to believe that a reportable condition exists; and
 - (b) Whether or not an emergency exists.
- (2) In determining 651 CMR 5.11(1)(a) and (b) the intake worker shall apply the facts alleged to the definition of Emergency set forth in 651 CMR 5.02(14), Reasonable Cause to Believe set forth in 651 CMR 5.02(38), Reportable Condition set forth in 651 CMR 5.02(39), Serious Physical Injury set forth in 651 CMR 5.02(42), and Serious Emotional Injury set forth in 651 CMR 5.02(41), Caretaker set forth in 651 CMR 5.02(3); and other appropriate provisions of 651 CMR 5.00; and shall utilize any other information obtained during screening. Such information may be obtained through discussion with the reporter, examination of Department or Protective Services Agency files and any collateral contacts necessary to provide corroborative information specific to the reported incident and the elderly person's condition.

5.12: Screening Decisions

- (1) If the intake worker determines:
 - (a) That there is reasonable cause to believe that a reportable condition exists; and
 - (b) That an emergency exists. e.g., that an elderly person is living in conditions which present a substantial risk of death or immediate and serious

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physical injury or serious mental harm, then the intake worker shall immediately designate the report an Emergency Report and cause the matter to be assigned for an immediate assessment as provided in 651 CMR 5.14.

(2) If the intake worker determines, based on information available in the report and obtained during screening that there is no reasonable cause to believe that a reportable condition exists, the intake form shall be placed in a file and be subject to expungement from the records of the Department and the Protective Services Agency in accordance with 651 CMR 5.29(9). Where appropriate the intake worker shall provide information and referral to the reporter regarding social, legal, health or other services which may be available to the elderly person.

(a) In cases involving reports from mandated reporters subject to fine and mandated reporters not subject to fine, the intake worker shall not determine that no reasonable cause to believe exists without:

1. Direct discussion with the reporter of Abuse, and
2. The assent of the intake worker's Protective Services Agency's supervisor or the regional supervisor of the Department.

(b) The intake worker may determine with supervisory approval that no reasonable cause to believe exists regarding a report from a nonmandated reporter, pursuant to M.G.L. c. 19A, s. 15(c), based upon:

1. A pattern of prior reports from the reporter which, upon investigation by the Department, or Protective Services Agency, have proved unsubstantial, or
2. Persuasive information obtained by the screener from reliable sources that the report cannot be substantiated.

5.13: Notification to Protective Services Agencies of Reports

(1) If the intake worker determines that the report constitutes an Emergency Report, all information on the report shall be immediately forwarded to the appropriate Protective Services Agency and/or regional supervisor.

(2) If the intake worker determines that the report constitutes a non-emergency report, all information in the report shall be forwarded to the appropriate agency as soon as possible and no later than the next business day.

5.14: Assessment of Reports

(1) An assessment of a report shall be in writing and shall determine:

- (a) The identity of the allegedly abused elderly person;
- (b) The nature, extent, and cause(s) of the alleged serious physical or emotional injury;
- (c) The identity of the person(s) alleged to be responsible for the alleged injuries;
- (d) The pertinent facts or matters which in the opinion of the Protective Services Caseworker are necessary to determine whether or not a reportable condition exists.

(2) The assessment shall include, but not be limited to the following:

- (a) A visit to the residence of the elderly person who is the subject of the report for the purpose of interviewing the person about the allegations of abuse; or, if such a visit is not possible, an in-person interview with such elderly person;
- (b) Utilization and completion of the assessment form provided by the Department;
- (c) Interviews with other members of the elderly person's household;
- (d) Collateral contact with service agencies and individuals involved with the elderly person;
- (e) During the home visit, or in person interview, written notification shall be given to the elderly person, on a form provided by the Department, that an assessment is being conducted and that (s)he has a right to review the Protective Services file. If an unsuccessful attempt has been made to visit the household, or conduct an in-person interview, the written notice shall be forwarded to the allegedly abused elderly person.

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- (3) If a caretaker or family member prevents the Protective Services Caseworker from gaining access to the elderly person who is the subject of the report, the Protective Services Caseworker shall immediately inform her/his Protective Services Agency supervisor. The Protective Services Agency supervisor shall convene a case conference with the Protective Services Caseworker and other appropriate person(s) for the purpose of determining what appropriate action may be warranted to proceed with the assessment.
- (4) The assessment of all emergency reports shall be completed within twenty-four (24) hours following the receipt of the report by the Protective Services Agency. The assessment shall be in writing.
- (5) The assessment of a non-emergency report shall be completed within seven (7) calendar days following the receipt of the report. The day of receipt of the report shall be day one (1) of this period.

5.15: Action Upon Finding No Reportable Condition Following Assessment

- (1) If, after the assessment of an emergency report or a non-emergency report the Protective Services Caseworker determines that no reportable condition exists, the Protective Services Caseworker, with supervisory approval shall:
 - (a) Expunge records in accordance with 651 CMR 5.29(9) within three (3) months of such determination; and
 - (b) Where appropriate, the Protective Services Caseworker shall provide information and referral to the allegedly abused elderly person regarding social, health, legal, or other services which may alleviate the problem of the elderly person;
 - (c) Set forth the determination of no reportable condition in writing to the reporter, if required under 651 CMR 5.08(8)(c) and to the allegedly abused elderly person, if requested.

5.16: Conducting a Functional Evaluation

If after the assessment of a report the Protective Services Caseworker determines that there is reasonable cause to believe that a reportable condition exists, a functional evaluation of the elderly person shall be conducted. Such functional evaluation shall assess the functional capacity, situation and resources of the abused elderly person. It shall involve, but not be limited to, the following activities:

- (1) Determination of the social, physical, and mental situation of the abused elderly person;
- (2) One or more interviews with the elderly person, her/his caretaker, and members of the elderly person's household;
- (3) Collateral contacts with service agencies and individuals to gather information appropriate to the determination of the service needs of the elderly person;
- (4) Completion of the Department's functional evaluation form;
- (5) Completion of the functional evaluation within fourteen (14) calendar days after receipt of the report by the Protective Services Agency. In cases of emergency reports, functional evaluations shall be completed within forty-eight (48) hours following the receipt of the report of abuse by the Protective Services Agency.

5.17: Financial Eligibility for Protective Services

- (1) Protective Services Casework shall be provided without regard to income to eligible elderly persons.

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(2) An Eligible Elderly Person whose Protective Services service plan requires Home Care Services that may be provided under the Commonwealth's Home Care Program (as defined in 651 CMR 3.01(2)) shall be subject to the financial eligibility requirements set forth in 651 CMR 3.03(2), and the functional impairment level requirements set forth in 651 CMR 3.03(3), and the determination of need requirements set forth in 651 CMR 3.03(4). An Eligible Elderly Person whose Protective Services service plan requires Respite Care shall be subject to the Respite Care Program requirements set forth in 651 CMR 3.06 et seq.

(3) An Eligible Elderly Person receiving Home Care Services or Respite Care under the Sliding Fee Program as set forth in 651 CMR 3.03(2)(b) or 651 CMR 3.06(4) shall be assessed monthly fees in accordance with such sliding fee rules.

(4) An Eligible Elderly Person whose service plan requires Home Care Services or Respite Care under the Commonwealth's Home Care Program, whose annual gross income is above the sliding fee program income limits for the Home Care Program and the Respite Care Program shall pay the full cost of Home Care Services provided.

(5) Home Care Corporations shall not collect fees in excess of the monthly cost of the client's services.

(6) No Eligible Elderly Person shall be required to reimburse the Department for fees or charges for Protective Services provided, unless he or she has been notified of such fee or charge prior to the commencement of service provision. If in the judgment of the Department or the Protective Services Agency discussion of financial eligibility and/or payment of fees would have an adverse effect upon the provision of Protective Service, no such notification shall be required and no bill shall be sent to the eligible elderly person. Supervisory approval of the determination of adverse effect shall be documented in the case record. Reasonable efforts to determine financial eligibility and/or collect such fees or charges shall be made on a monthly basis following the provision of services.

(7) Home Care Corporations shall make reasonable efforts to collect such fees or charges on a monthly basis in accordance with 651 CMR 5.17 following the provision of services. All charges shall be paid by check or money order payable to the Home Care Corporation through which the service is provided. The Home Care Corporation shall remit all charges collected to the Department. The failure to pay or partial payment of monthly charges by individuals or families who receive services pursuant to 651 CMR 5.17 shall not affect the eligibility of said individuals and families for such services.

(8) Co-Payment Under Home-Delivered Meals Program. Home-delivered meals shall be provided on a per meal co-payment basis to all Eligible Elderly Persons who are financially eligible in accordance with 651 CMR 3.03(2)(f) and who need such services subject to the following requirements:

(a) Clients who receive home-delivered meals service pursuant to 651 CMR 5.17 shall be requested to pay a co-payment at a rate set at the same levels as the suggested contribution for the Title III-C of the Older Americans Act nutrition program within the service area served by the Home Care Corporation.

(b) Home Care Corporations or home-delivered meals providers shall not collect co-payments in excess of the cost per meal approved by the Department.

(c) Home Care Corporations and/or the home delivered meals providers shall use due diligence to ensure that fees are collected in accordance with 651 CMR 5.17.

(d) The failure to pay or the partial payment of such fees by clients who receive home-delivered meals pursuant to 651 CMR 5.17 shall not affect the eligibility of said clients for such services. Such services shall not be denied on this account.

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(9) Protective Services other than those mentioned in 651 CMR 5.17(1) through 5.17(8) shall be provided or arranged for by the Protective Services Agency subject to appropriation, and subject to the financial and other eligibility criteria of the government agency or private organization providing such service(s).

5.18: Development of a Service Plan

(1) Based on the functional evaluation and other pertinent information, the service plan shall describe, in writing, actions and services needed to eliminate or alleviate abuse. Actions and services may be provided by caseworkers, elderly persons, caretakers, relatives, friends, human service and health services professionals, and others depending on needs and availability of resources. The service plan shall include, but is not limited to, the following:

- (a) Statement(s) of the major problem(s) contributing to abuse;
- (b) Statement(s) of major casework objective(s) whose accomplishment will partially or completely alleviate or eliminate abuse;
- (c) Statement(s) of major activities and services necessary to accomplish casework objectives. Such statement shall include a description of services already being received by the elderly person.

(2) The service plan shall utilize the least restrictive alternatives and shall be subject to consent by the abused elderly person in accordance with the provision of M.G.L. c. 19A, ss. 20(a) and/or (b).

5.19: Obtaining Consent for Protective Services

(1) A Protective Services Agency shall not provide Protective Services to an elderly person who suffers from a reportable condition and who needs such service(s) unless they have obtained one of the following:

- (a) The written consent by the elderly person, or;
- (b) If the elderly person lacks the capacity to consent, authorization for the provision of service(s) in accordance With M.G.L. c. 19A, ss. 20(a) or (b).

(2) The consent shall include, but not be limited to a description of all services to be provided or arranged for, including:

- (a) Unit of service provided per time period (e.g., hours/weeks);
- (b) Duration of services;
- (c) Names and addresses of agencies to be providing services;
- (d) Statement of any fee(s) assessed to the elderly person.

(3) In an emergency, service(s) may be provided with the verbal consent or by an affirmative act of the abused elderly person or guardian and the approval of the Protective Services Caseworker and her/his supervisor. The Protective Services Agency shall attempt to obtain written consent as soon as possible thereafter.

5.20: Implementation of Service Plan with Client's Consent

Upon receipt of consent from the abused elderly person or properly appointed fiduciary for the provision of one or more Protective Services, the Protective Services Caseworker shall:

- (1) Provide or arrange for the provision of one or more services in accordance with the service plan, the financial eligibility of the elderly person for services funded through agencies other than the Department, and the availability of resources.
- (2) Document the utilization of Protective Services by the eligible elderly person, as well as the unavailability of certain services or her/his inability to obtain certain services.
- (3) Document the accomplishment of activities taken to alleviate or eliminate the abuse of the elderly person.

5.21: Actions When Consent Not Available

(1) If a Protective Services Caseworker has reasonable cause to believe that a reportable condition exists and the abused elderly person refuses to consent or withdraws consent, no Protective Services shall be provided or continued except as provided in 651 CMR 5.22 through 5.24.

(2) Upon a refusal to consent, or withdrawal of consent to Protective Services by an abused elderly person who has the capacity to consent; or upon the decision of the Court not to appoint a fiduciary of an abused elderly person under M.G.L. c. 19A, s. 20(a) or to issue an order for Protective Services, the Protective Services Caseworker shall do the following:

- (a) Notify the elderly person of the availability of Protective Services should she/he decide to consent to services at a future time;
- (b) Offer to the elderly person continuing Protective Services Casework;
- (c) Advise the elderly person of the availability of home care and other social services in her/his area;
- (d) Advise the elderly person of the availability of free legal services in her/his area;
- (e) Explain the availability of M.G.L. c. 209A and other appropriate legislation to protect her/him from further abuse in family and household abuse situations.

5.22: Actions If Client Lacks the Capacity to Consent/Emergency Report

(1) The Protective Services Agency or the Department may petition the Court for an Emergency order of Protective Services under M.G.L. c. 19A, s. 20(b) specifying those services necessary to remove the condition creating the emergency if, as the result of an assessment and evaluation of an emergency report and the development of a written service plan, the Protective Services Agency or the Department has reasonable cause to believe:

- (a) That a reportable condition exists;
- (b) That an emergency exists, i.e., the elderly person is living in conditions which present a substantial risk of death or immediate and serious physical or mental harm;
- (c) That the elderly person is in need of one or more Protective Services to remove the conditions creating the emergency;
- (d) That an attempt has been made to obtain written consent for the provision of one or more Protective Services and the elderly person has not so consented; and
- (e) That the elderly person has not consented because she/he lacks the capacity to consent to the provision of one or more Protective Services needed to remove the conditions creating the emergency.

(2) A member of the immediate family, or caretaker of the elderly person may also petition to the Court for such an order if they have reasonable cause to believe that the conditions set forth in 651 CMR 5.22(1)(a) through (e) exist. A member of the immediate family or caretaker is encouraged to report the alleged abuse to the Department, the Department's twenty-four (24) hour per day designee, or Protective Services Agency and seek an emergency assessment and evaluation of the situation and condition of the elderly person prior to filing a petition with the Court for an emergency order for Protective Services under M.G.L. c. 19A, s. 20(b).

(3) The petition for an Emergency order for Protective Services under M.G.L. c. 19A, s. 20(b) shall set forth the facts and attesting documentation required by the Court and be in accordance with procedures developed by the Court.

(4) If the Elderly Person who is the subject of the petition is indigent, lacks the capacity to retain counsel or waive the right to counsel, the Court shall appoint counsel and/or a guardian ad litem to represent the interest of such Elderly Person at the hearing of such emergency order.

(5) If, after a hearing the Court determines, based on the preponderance of the evidence, that the Elderly Person has been or is being abused, that an emergency exists, and that the Elderly Person lacks the capacity to consent to the provision of services, the Court may order the provision of Protective Services on an emergency basis.

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(6) The Court shall order only those services necessary to remove the conditions creating the emergency and shall specifically designate the authorized services in its order.

(7) The order for emergency Protective Services shall remain in effect for a period not to exceed fourteen (14) days. Said order may be extended for an additional period not to exceed fourteen (14) days if the Court finds that the extension is necessary to remove the emergency.

5.23: Actions If Client Lacks the Capacity to Consent/Non-Emergency Report

(1) The Protective Services Agency or the Department may petition the Court for the appointment of a fiduciary for purposes of consent to Protective Services under M.G.L. c. 19A, s. 20(a) and/or for an order of Protective Services under M.G.L. c. 19A, s. 20(a) if, as the result of an assessment and evaluation of a non-Emergency report and the development of a written service plan, the Protective Services Agency or the Department has reasonable cause to believe:

- (a) That a reportable condition exists;
- (b) That the elderly person is in need of one or more Protective Services;
- (c) That an attempt has been made to obtain written consent to the provision of one or more Protective Services and the elderly person has not so consented;
- (d) That either the elderly person has not consented because she/he lacks the capacity to consent to the provision of one or more Protective Services; or
- (e) No legally authorized other person is available or willing to consent to the provision of one or more Protective Services.

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- (2) The petition for appointment of a fiduciary and/or order for Protective Services shall set forth the facts and attesting documentation required by the Court and be in accordance with procedures developed by the Court. Such petition will seek the appointment of the least restrictive form of fiduciary representation that will satisfy the needs of such elderly person.
- (3) The elderly person who is the subject of the petition shall have the right to be present, be represented by Counsel, present evidence and examine and cross-examine witnesses.
- (4) If the Court determines that the Elderly Person lacks the capacity to retain counsel or waive the right to counsel, the Court shall appoint a guardian ad litem to represent the interests of such Elderly Person.
- (5) If, after a hearing the Court determines, based on the preponderance of the evidence, that such Elderly Person has been abused, is in need of Protective Services and lacks the capacity to consent and no other person who is authorized to consent is available or willing to consent, the Court may appoint a Conservator, Guardian, or other person authorized to consent to the provision of Protective Services; provided however, that the Court shall establish the least restrictive form of fiduciary representation that will satisfy the needs of such elderly person.
- (6) An order for Protective Services for an Elderly Person pursuant to M.G.L. c. 19A, s. 20(a) shall remain in effect for a period of six (6) months, unless otherwise stipulated in such order. The Court may, for good cause shown, extend an order for Protective Services. Such extension shall remain in effect for a period of six (6) months, unless otherwise stipulated in such order. The Eligible Elderly Person, the Department, or the Protective Services Agency may, for good cause shown, and at any time, petition the Court to vacate any order of the Court pursuant to M.G.L. c. 19A, s. 20(a).

5.24: Provisions Applicable to Petitions to the Court Under M.G.L. c. 19A, ss. 20(a) or 20(b)

- (1) Petitions to the Court for the appointment of a Guardian, Conservator, other fiduciary, or order for Protective Services pursuant to M.G.L. c. 19A, ss. 20(a) and/or 20(b) may, if required by the Court and subject to appropriation be accompanied by an evaluation as set forth in 651 CMR 5.04(1)(k). This report may consist of the following:
 - (a) The name and address of the place where the elderly person is residing and of the person or agency, if any, who is providing services at present;
 - (b) A description of the treatment and services, if any, presently being provided to the elderly person;
 - (c) A statement that an appropriately licensed medical, psychological, and/or social work professional has examined said elderly person;
 - (d) An evaluation of the elderly person's present physical, mental and social condition;
 - (e) An opinion of whether, based on the evaluation of the elderly person's present physical, mental and social condition, she/he lacks the capacity to consent to the provision of Protective Services;
 - (f) A recommendation concerning the least restrictive course of services, care or treatment consistent with the person's needs.
- (2) Such elderly person shall have the right, at her/his own expense, to secure an independent medical and psychological or psychiatric examination relevant to the issue involved in any hearing under M.G.L. c. 19A, ss. 20(a) or 20(b) and to present a report of his independent evaluation or the evaluator's personal testimony as evidence at the hearing.
- (3) A fiduciary appointed pursuant to M.G.L. c. 19A, s. 20(a), or individual or organization to whom an emergency order for Protective Services under M.G.L. c. 19A, s. 20(b) is directed shall cause a copy of their appointment by the Court, and the emergency order, or other order of Protective Services to be placed in the Protective Services case file of the Eligible Elderly Person as soon as possible after said appointment and order are granted.

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- (4) The Protective Services Caseworker shall develop and implement a service plan for the provision of one or more Protective Services in accordance with the emergency order as soon as possible after M.G.L. c. 19A, ss. 20(a) or 20(b) orders are granted.
- (5) Where funds are not available through appropriation from the Department to directly provide one or more Protective Services under M.G.L. c. 19A, ss. 20(a) and 20(b), the Protective Services Agency shall coordinate with and utilize existing social, health, mental health, legal and other resources to provide services under a service plan.
- (6) The Protective Services Agency shall insure that the services of such persons already familiar with the elderly person shall be obtained for this purpose whenever possible.

5.25: Follow-Up and Reassessment of Protective Services Plan

- (1) After the initiation of one or more Protective Services, the Protective Services Caseworker shall maintain periodic contact with the eligible elderly person to:
 - (a) Assess whether the services provided to the eligible elderly person are meeting her/his needs;
 - (b) Ascertain if the services are being provided in a manner acceptable to the eligible elderly person; and,
 - (c) Determine and make necessary changes in the level, amount, and/or type of services deemed appropriate by the Protective Services Caseworker which has not already been set forth in the initial service plan.
- (2) After the commencement of Protective Services, reassessment of an eligible elderly person's need for services shall be accomplished at least once during the first month of service. After the initial month, each eligible elderly person's need for services shall be reassessed at least every two (2) months thereafter until such service(s) are no longer required. Any changes in the service pattern, including an increase, reduction, termination, or suspension of service other than those set forth in the initial plan, made as a result of those periodic reviews, shall be reflected in the service plan.
- (3) Service Authorization. The Protective Services Agency, subject to appropriation and the availability of funding through the Department, shall issue a written service authorization to a vendor in order to initiate services to a client or to make changes in the level, amount, and/or type of services to the eligible elderly person. Such authorization to the vendor may be in effect for six (6) months. The service level and the type shall be reassessed at least every two (2) months and the authorized service shall be changed as necessary. If the circumstances of the client, as determined through the Comprehensive Needs Assessment Procedure (CNAP), are such that a six (6) month authorization is not necessary, the Protective Services Agency may restrict authorization to the vendor for a shorter period of time. For Protective Services not funded through the Department, the Protective Services Caseworker shall seek service authorization through the appropriate agency or organization in accordance with their procedures.

5.26: Providing Documentation of Casework and Services

Written documentation describing the Protective Services Caseworker's actions, contacts, and findings shall be maintained in the protective service file. These should be kept current to within five (5) business days of contacts or actions. Documentation shall include, but not be limited to:

- (1) Intake information regarding reports and collateral contacts.
- (2) Assessment information describing causes, incidences, nature, and extent of abuse;

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- (3) Functional evaluation information describing social, physical, and mental status of the eligible elderly person;
- (4) Descriptions of actions taken by the caseworker and/or others to alleviate or eliminate Abuse, including contacts with the eligible elderly person and others;
- (5) Description of activities of other persons and agencies providing services or assistance to the eligible elderly person;
- (6) Identification of sources of information concerning the eligible elderly person's social, physical and/or mental situation and other pertinent matters;
- (7) Supporting documentation such as reports, evaluations, and investigations obtained from casemanagers, nurses, doctors, lawyers, psychotherapists, police officers, coroners, and other professionals;
- (8) Service plan and consent for services describing services recommended, provided or arranged.

5.27: Reporting to District Attorneys and Time Frames for Reporting

- (1) If the Department or its designated agency has reasonable cause to believe that an Elderly Person has died as a result of abuse, the death shall be reported immediately to the District Attorney of the County in which the abuse occurred. Written notification shall be forwarded to the District Attorney as soon as possible.
- (2) If an assessment results in a determination that the Elderly Person has suffered Serious Abuse, the Department or designated agency shall report such determination to the District Attorney of the County where the abuse occurred within forty-eight (48) hours. A written report shall be forwarded to the District Attorney as soon as possible. The District Attorney may investigate and decide whether to initiate criminal proceedings.
- (3) If an assessment results in a determination that the Elderly Person has suffered the threat of Serious Abuse and the Agency has reasonable Cause to Believe that the perpetrator may have the intent and capacity to carry out the threatened Serious Abuse, the Department or Protective Services Agency may, in its discretion, report such determination to the District Attorney of the County where the threatened abuse may occur as soon as possible following such determination.
- (4) Release of Full Report/Personal Data. Neither the provisions of M.G.L. c. 66A regarding the confidential holding of personal data by the Department or Protective Services Agencies, M.G.L. c. 112, s. 135 regarding social worker/client privilege nor the privacy and confidentiality requirements of M.G.L. c. 19A, s. 23 shall prohibit the Department, or a Protective Services Agency, by its appropriate staff, from making full reports to the District Attorney regarding information obtained by it from the report of abuse or during the assessment, evaluation, or service provision stages of a Protective Services case involving the Serious Abuse or threat of Serious Abuse of an Elderly Person or the death of an Elderly Person resulting from abuse. The identity of the reporter of abuse shall be included in this report. Further personal data of data subjects including, but not limited to, the case file shall be released to the District Attorney upon request.
- (5) The Department or the Protective Services Agency shall after the filing of such report, attempt to schedule a meeting with the District Attorney's Office in order to discuss any future action to be taken in the case.
- (6) Response to Requests for and/or Production of Documents in Criminal Cases. Any party to a criminal action who seeks testimony and/or production of documents other than those documents previously released by the Department or a Protective Services Agency to the District Attorney pursuant to 651 CMR 5.27(4) shall do so by subpoena. Upon receipt of the subpoena, and prior to the date set therein for appearance or production of documents in Court, the employee of the Department or Protective Services Agency subject to such

5.27: continued

subpoena shall consult with his or her supervisor and legal counsel. The Department or Protective Services Agency may, in its discretion, move to quash such subpoena, in whole or in part if, in its opinion the testimony and/or production of documents would not be in the best interests of the Elder. If such testimony and/or production of documents is provided, it shall not include the identity of the reporter of Abuse under M.G.L. c. 19A, s. 15. This subsection shall apply to cases in which the above mentioned testimony and/or production of documents has been sought as a result of a report to the District Attorney pursuant to M.G.L. c. 19A, ss. 15(b) or 18(a) or in other criminal cases.

5.28: Financial and Administrative Responsibilities of Protective Services Agencies Under the Protective Services Program

The Protective Services Agency shall establish financial systems and procedures which comply with the provisions contained in Title 45 Code of Federal Regulations Part 74 (Administration of Grants), Subpart H (Standards for Grantee and Sub-Grantee Financial Management Systems) as well as requirements developed by the Department.

5.29: Privacy and Confidentiality Requirements

(1) Generally. All records containing Personal Data concerning elderly persons for whom a report of alleged Abuse has been made under M.G.L. c. 19A, s. 15 to the Department, the Department's twenty-four (24) hour per day designee(s). Protective Services Agencies or other agencies holding Personal Data shall be governed by M.G.L. c. 66A, the Privacy and Confidentiality Regulations of the Department, 651 CMR 2.00 et seq. and 651 CMR 5.00 shall apply to the Department, the Department's twenty-four (24) hour per day designee(s), and Protective Services Agencies as Holder(s) of Personal Data.

(2) Agreement With Holder of Personal Data. The Department shall enter into an agreement with its twenty-four (24) hour per day designee(s) and each Protective Services Agency whereby each Protective Services Agency and designee(s) agrees to act as a holder of personal data and comply with the aforementioned regulations regarding the holding of personal data as a result of performing a governmental or public function or purpose.

(3) Separate Personal Data System. Each holder of personal data under the Protective Services Program shall establish a separate Personal Data System for the implementation of its Protective Services Program in compliance with the aforementioned law and regulations regarding personal data.

(4A) Access to Personal Data by Third Parties. Each holder maintaining personal data shall not allow any agency or individual other than the employees of the Department or other holder agency under the Protective Services Program to gain access to personal data unless such access is authorized by statute or regulations, or is authorized by the Data Subject whose personal data is sought with the following exception:

Medical or psychiatric data may be made available to a physician treating a data subject upon the request of said physician, if a medical or psychiatric emergency arises which precludes the data subject's giving approval for the release of such data, but the data subject shall be given notice of such access upon termination of the emergency.

(4B) Reports to District Attorneys/Criminal Matters

(a) Any documents provided to a District Attorney in accordance with this chapter of these regulations, which are thereafter subpoenaed from the District Attorney or otherwise requested from the District Attorney by any party to any pending criminal matter, shall be released or not released by the District Attorney solely in accordance with the applicable rules or procedures governing the District Attorney, and no notice to or consent from the Department or Protective Services Agency shall be required. The District Attorney shall make his/her best efforts to preserve the confidentiality of personal data held in such case files in accordance with M.G.L. c. 66A, the Fair Information Practices Act (FIPA), especially regarding the confidentiality of the identity of the reporter of abuse.

5.29: continued

(b) Any documents from the Department or Protective Services Agency files which are subpoenaed directly from the Department or a Protective Services Agency by any party to a criminal matter to which the Department or Protective Services Agency is not a party, shall be brought by the Department or Protective Services Agency before the trial court, at which time the Department or Protective Services Agency:

1. shall make the judge aware of the provisions of M.G.L. c. 19A, s. 23, c. 66A, s. 2, and M.G.L. c. 112, s. 135;
2. may, pursuant to 651 CMR 5.27(6), move to quash such subpoena in whole or in part if, in its opinion, the production of documents in the file would not be in the best interests of the abused elder.
3. shall seek a specific order from the judge as to the extent and manner of release by the Department or Protective Services Agency.

(5) Access to Personal Data by Data Subject. The Department, any Protective Services Agency, or any other agency obligated to make an assessment under the Protective Services Program shall inform an individual in writing, upon her/his request, whether she/he is a data subject with respect to records created or maintained under the Protective Services Program, and if so, the Department or the Protective Services Agency shall make such data fully available to her/his authorized representative upon her/his request in a form comprehensible to her/him with the following exceptions:

- (a) A Holder may withhold from a data subject information which is currently the subject of an investigation if disclosure would prejudice the possibility of effective law enforcement and not be in the public interest. Information may be withheld for the time it takes for the Holder to complete its investigation and commence an administrative or judicial proceeding, or one (1) year, whichever comes first.
- (b) In making a disclosure, the holder may remove personal identifiers relating to a third person, except where such third person is an officer or employee of government or agency holder of personal data under the Protective Services Program.

(6) Approval by Data Subject. The approval of the data subject which is required prior to granting access to records herein may be granted in writing or orally, including by telephone; however, the Department shall make reasonable efforts to verify the data subject's identity; and shall, if no written consent is given, file a record of any oral approval together with the personal data held.

(7A) Penalties for Violating Confidentiality Regulations. Any agent or employee of the Department, a Protective Services Agency, or any other holder agency obligated to make an assessment under the Protective Services Program who violates the confidentiality regulations set forth herein shall be subject to the following penalties, pursuant to M.G.L. c. 19A, s. 23(d):

- (a) A fine of not more than five hundred (\$500) dollars;
- (b) A fine of not more than one thousand (\$1,000) dollars if harm shall have resulted to anyone whose privacy was sought to be protected by the provision violated;
- (c) If such agency or employee is employed by the Commonwealth, he shall also be subject to reprimand, suspension, dismissal, or other disciplinary action pursuant to the enforcement sanctions set forth in the Department's Privacy and Confidentiality Regulations, 651 CMR 2.05.

(7B) Defense to Civil or Criminal Action. No person providing notification or information to a District Attorney or testimony in court pursuant to M.G.L. c. 19A, s. 23 shall be liable in any civil or criminal act by reason of such action.

(7C) Testimony Involving Release of Personal Data Allowed in Certain Matters. No provision of M.G.L. c. 66A regarding the confidential holding of personal data by the Department or Protective Services Agencies, or any other provision of law relating to confidential data or confidential communications shall prohibit the Department, by its appropriate employees, or any Protective Services Agency, by its appropriate employees from testifying in any of the following types of judicial proceedings involving the client where the employee has acquired the information which is the subject of his testimony while conducting an assessment or providing Protective Services in accordance with M.G.L. c. 19A, s. 18:

5.29: continued

- (a) A petition for A Protective Order through the Court, or for the appointment of a Guardian or Conservator under M.G.L. c. 19A, s. 20(a);
- (b) A petition seeking An Order for Emergency Protective Services under M.G.L. c. 19A, s. 20(b);
- (c) A petition seeking the appointment, discharge, or other order regarding a Guardian, Conservator, or guardian ad litem under M.G.L. c. 201;
- (d) A complaint requesting protection from abuse filed under M.G.L. c. 209A, s. 3, or any subsequent Court hearing involving such complaint.

Any party other than the Department, to a legal action set forth in 651 CMR 5.29 (7C) (a), (b), (c), or (d) above who seeks testimony and/or the production of documents from the Department or any Protective Services Agency in accordance with this section shall do so by subpoena. The Department, or the Protective Services Agency may, in its discretion, move to quash such subpoena seeking such testimony or the release of such documents if, in its opinion such testimony or production of documents would be contrary to the best interests of the abused Elder(s) in question. If such testimony, and/or production of documents is provided, it shall not include the identity of the reporter of Abuse under M.G.L. c. 19A, s 15.

5.29: continued

(7D) Testimony or Release of Personal Data In Other Civil Matters.

Whenever any Department or Protective Services Agency documents including that in the form of testimony are sought by compulsory legal process in any civil process other than those set forth in 651 CMR 5.29(7C), the Department or Protective Services employee shall consult with his or her supervisor and legal counsel as soon as possible following receipt of such subpoena or other compulsory process. The Department or Protective Services Agency shall not release such documents until the Department or Protective Services Agency has notified each data subject identified in the documents so that (s)he may take responsive action if so desired. Such efforts at notification may be oral or written, including oral notice by telephone. Such efforts at notification shall be documented. The Department or Protective Services Agency may, in its discretion, move to quash such subpoena, in whole or in part if, in its opinion the testimony and/or production of documents would not be in the best interests of the Elder. If such testimony and/or production of documents is provided, it shall not include the identity of the reporter of Abuse under M.G.L. c. 19A, s. 15.

(8) Access to Confidential Records During Court Proceedings.

(a) In all proceedings brought under M.G.L. c. 19A, ss. 20(a) and 20(b) or M.G.L. c. 201 in which the Department or Protective Services Agency is a party, a copy of the entire Protective Services case file, including the pertinent M.G.L. c. 19A, ss. 15(a), 15(b) or 15(c) reports, and M.G.L. c. 19A, s. 18(a) assessment and evaluation shall be made available, upon written request, to any of the following:

1. A Court appointed guardian ad litem;
2. An officer of the Court assigned by the judge;
3. An attorney for the petitioner seeking appointment as a Protector or other fiduciary under M.G.L. c. 19A, s. 20(a) or for a M.G.L. c. 19A, s. 20(b) order; for guardianship or conservatorship of the abused elderly person; an attorney for the Department, Protective Services Agency, or elderly person.

(b) The written request shall contain a statement from the requesting party that any material disclosed shall not be further duplicated nor divulged to any person not a party to the particular proceeding, unless by order of the Court. Reasonable fees for copying records shall be charged.

(c) Whenever the Department or a Protective Services Agency has reason to believe that disclosure to any individual named above of all or a portion of the Protective Services case file would be contrary to the elderly person's best interest, the Department or Protective Services Agency shall bring to the Court's attention the reason(s) for denying access.

(9) Expungement of Reports and Evaluations. The Department, Protective Services Agency, and any other agency holding personal data obligated to make an assessment under the Protective Services Program shall expunge all personal data within its control regarding a data subject where a report of alleged abuse cannot be substantiated. The holder shall, within three (3) months of such determination:

- (a) Destroy said report and any other records containing personal data created because of the receipt of said report; or
- (b) Physically remove therefrom all personal identifiers; provided however, that the agency holding personal data obligated to make assessment may create and hold whatever statistical records it needs for purposes of planning and reporting.

5.30: Non-Discrimination in Service Delivery

Neither the Protective Services Agency nor its subcontractors or subgrantees shall deny services to or otherwise discriminate in the delivery of services to any person who otherwise meets the eligibility criteria for the Protective Services Program, on the basis of race, color, religion, sex, age, national origin, ancestry, physical or mental handicap or because such a person is a recipient of federal, state, or local public assistance or housing subsidies. A Protective Services Agency shall comply with all applicable provisions of:

- (1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*); and
- (2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the regulations promulgated thereunder, (45 CFR 85); and
- (3) M.G.L. c. 151B, s. 4(10)

5.31: Non-Discrimination in Employment

Neither the Protective Services Agency nor its subcontractors or subgrantees shall discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion or physical or mental handicap. They shall comply with all applicable provisions of:

- (1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*); and
- (2) M.G.L. c. 151B, s. 4(1); and
- (3) Department of Elder Affairs, 651 CMR 8.00 - Discrimination Based on Age in Agencies and Organization in Receipt of Funds from the Department of Elder Affairs; and
- (4) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the regulations promulgated pursuant thereto (45 CFR 85).

5.32: Protection of Clients

The Protective Services Agency and its subcontractors and subgrantees shall comply with the applicable provisions of the Department of Elder Affairs' Regulations Governing the Protection of Clients Who are Participants in Research Projects (651 CMR 7.00).

5.33: Affirmative Action

The Protective Services Agency shall have in effect, maintain and adhere to a current Affirmative Action Plan which fulfills the applicable requirements of the Governor's Executive Order.

5.34: Waivers

(1) Waiver-Request by Secretary. The Secretary of the Department may, in his discretion, waive one or more of the requirements of 651 CMR 5.00 if necessary to preserve the public health, safety or welfare, and if such a waiver would not violate any applicable federal or state law or regulation. Such a waiver shall clearly identify that section of the Protective Services Program regulations to be waived; the conditions that have made such a waiver necessary; the steps that have been taken to insure that future waivers will not be necessary; the consequences to the Protective Services Program or Eligible Elderly Persons of not granting the waiver request.

(2) Other Waivers. All other requests for waivers shall be made in writing to the Secretary by the President of the Board of Directors or Chief Executive Officer of the organization making such a request and shall set forth the information required in the second sentence of 651 CMR 5.34(1).

5.35: Annual Report

The Department shall report annually on its activities and the activities of designated agencies providing Protective Services to eligible elderly persons under the Protective Services Program. Such report shall be submitted to the Governor, the General Court and the public no later than one hundred and twenty (120) days following the end of each fiscal year. The contents of such report shall include, but not be limited to:

- (1) Statistical information about the number and types of reports received during the prior fiscal year;
- (2) Aggregate information indicating the results of the assessments and evaluations conducted by Protective Service Agencies;
- (3) Information on the types and costs of services provided under the authority of 651 CMR 5.00 during the prior fiscal year.

REGULATORY AUTHORITY

651 CMR 5.00: M.G.L. c. 19A, ss. 6, 16(d), 16(e), 18(a), 22 and 25.

NON-TEXT PAGE



The Commonwealth of Massachusetts
Executive Office of Elder Affairs
38 Chauncy Street, Boston, Mass. 02111

MICHAEL S. DUKAKIS
 GOVERNOR

PAUL J. LANZIKOS
 SECRETARY

PROGRAM INSTRUCTION

EOEA-PI-90-05

REF: EOEA-PI-89-62

TO: Designated Protective Services Agencies
 Elder At Risk Agencies
 Home Care Corporations
 Guardianship Agencies
 Agency Attorneys
 Elder Abuse Hotline

FROM: Paul J. Lanzikos
 Secretary *Paul J. Lanzikos*

RE: Identification of Neglect

DATE: February 1, 1990

OVERVIEW:

The purpose of this Program Instruction is to clarify the identification of neglect under Regulations Governing the Elder Abuse Reporting and Protective Services Program (651 CMR 5.00). Protective Services social workers and supervisors, agency administrators and attorneys have expressed a need for such clarification and have participated in identifying and discussing the issues addressed in this Program Instruction. The issues are:

1. Labeling of types of neglect and labeling of "alleged abusers" and "alleged victims", etc., in reports and assessments.
2. Interpretations of the regulations which are either too inclusive or too exclusive in identifying neglect situations.
3. Criteria for screening and assessment of reports of neglect.

The issues of labeling and regulatory interpretation effect the judgements of Protective Services staff as they begin to intervene in possible neglect situations. It is therefore important that the criteria for making judgements regarding the identification of neglect be as clear as possible in order to avoid unwarranted intrusion into the life of an elderly person and his/her family.

M.G.L. c.19A s.14 and Protective Services Regulations (651 CMR 5.02) define the circumstances under which intervention by Elder Protective Services is both required and justified. This Program Instruction clarifies the implementation of these statutory and regulatory definitions. The relevant sections of M.G.L. c.19A s.14 and 651 CMR 5.02 are appended to this Program Instruction.

LABELING:

This issue involves two different types of labels: (1) labels applied to types of neglect; (2) labels applied to individuals themselves. The use of both types of labels in the identification of neglect has been a source of confusion for Protective staff. Neither type of label is appropriate. The reasons for their inappropriateness are different and are discussed below.

A. Labeling of Types of Neglect

Over time, terms such as "active" and "passive," "benign" and "intentional" have been used to describe and therefore to define neglect. These descriptions of neglect have sometimes resulted in a focus on the assignment of blame and the assessment of the intent of others rather than in a focus on the condition of the elderly person.

While such categories of action and intent may be important in structuring interventions with the family after a determination has been made that neglect exists, these concepts are not productive in the identification and assessment of possible neglect situations. Protective situations are defined by regulation as those in which an elder has been physically or emotionally abused by another or has been neglected by a caretaker. After receiving and screening a report of a possible neglect situation, the focus of the assessment should be directed towards determining the condition and situation of the elderly person and the elder's wishes regarding his/her care.

B. Labeling of Individuals

In addition to the labeling of types of neglect described above, the labels "alleged abuser," "alleged victim" "abuser," "neglector," and "perpetrator" are often currently used in intake, screening and assessment. The use of these labels presupposes the results of the Protective investigation. These labels, in particular, are perjorative and their use without evidence and assessment may result in a denial of Constitutional rights to the person so labeled.

The investigation of Protective reports requires the utilization of descriptive documentation of observable facts regarding the condition of the elderly person and the behaviors of people involved with the elder. Judgemental labeling of the behaviors and circumstances of individuals and of individuals themselves often only serves to confuse the issues to be investigated and assessed.

Elder Affairs PI-89-62 has removed such labels from the Elder Abuse Intake Form. Future Program Instructions will remove these labels from other Protective Services forms. It is also expected that Progress Notes in Protective Services cases will be completed without the use of any of the above labels.

REGULATORY INTERPRETATIONS:

Of concern has been the tendency to be either excessively inclusive or exclusive in identifying neglect. These issues of regulatory interpretation center primarily around judgements made by Protective agencies and staff regarding persons responsible for the care of the elderly person.

A. Inclusive Interpretation

Inclusive interpretations of the regulatory definitions of caretakers are usually characterized by inaccurate applications of certain sections of the regulations. The most common inaccurate and partial applications are: (1) any form of assistance or "help" provided to an elder constitutes the voluntary assumption of the duties of a caretaker, and (2) a familial relationship automatically makes a person responsible for the care of an elder relative.

For example, an 83 year old woman living in elder housing in Worcester is visited occasionally by her daughter who lives in Boston. On these visits, daughter sometimes brings mother a few groceries and usually takes mother out to dinner. Mother has never been much of a housekeeper and has always been somewhat forgetful. Her apartment is cluttered and rather dirty and she sometimes forgets to pay the rent.

Recently mother has begun to wander the halls of her building at night and her personal hygiene has deteriorated markedly to the point at which her friends in the building no longer want to associate with her. She does not appear to be buying groceries any longer and has stopped going to the meal site for lunch. Neighbors have been feeding her for the last two weeks. The housing manager reports that mother is being neglected. Using the inaccurate and partial regulatory interpretations described above, both daughter and mother's neighbors would erroneously be identified as mother's caretakers.

However, the regulatory definitions of caretakers, when applied as a whole, provide additional requirements for the identification of caretakers in possible neglect situations. Those additional requirements are that caretakers must either live with the elder or maintain a physical presence in the elder's home on a regular basis and provide substantial assistance of permanent duration upon which the elder clearly relies.

Throughout the regulations, the standard for making judgements regarding the identification of caretakers is that substantial assistance is being provided which would lead a reasonable person to believe that individuals have assumed the significant obligations of caretakers.

In providing a number of interrelated and specific requirements for the identification of caretakers, the regulations have distinguished between the obligations and responsibilities of caretakers and the roles of family, friends, neighbors and acquaintances in the life of an elderly person. These distinctions are necessary in order to address the reality that people may have a role in the life of an elder without having assumed the duties of caretakers.

B. Exclusive Interpretation

Exclusive interpretations of the regulatory definitions of caretakers are characterized by the inaccurate assumption that individuals must have already provided one particular type of care to the elder in order to be identified as caretakers. This assumption is based on the notion that withdrawal of care is necessary in order for a situation to be identified as neglect.

For example, several relatives have cared for a frail, marginally competent elderly man daily for over a year. They bring groceries, cook, do laundry, fill prescriptions, pay bills, and clean his home at his request. When the elder becomes bedbound and is no longer able to meet his own personal care needs, his relatives do not provide personal care for him nor do they arrange for his personal care needs to be met. The elder becomes increasingly confused and develops infected decubiti. Using the inaccurate assumption described above, the relatives would not be identified as caretakers because they have never before provided or arranged for the elder's personal care and are therefore not withdrawing care from the elder.

The above inaccurate interpretation is a supposition that does not take into account the reality of the changing and increasing needs of a frail elder who is in need of and relying on the substantial care being provided by others. Again, the regulatory standard for identifying caretakers is that substantial assistance is being provided which would lead a reasonable person to believe that individuals have assumed the duties of caretakers.

Inclusive regulatory interpretations have often been practiced as a means of ensuring service delivery to elders and their families under the legal mandate of Protective Services. Exclusive regulatory interpretations have unnecessarily limited Protective interventions in situations in which such interventions may have been appropriate and necessary in alleviating neglect. Both of these interpretations have led to misunderstandings of the purpose and function of Protective Services and to confusion regarding what circumstances constitute a Protective neglect situation.

CRITERIA:

Certainly many of the possible neglect situations with which Protective agencies become involved are far from clear. The complexity inherent in these situations has resulted in the two diverse regulatory interpretations discussed above. The labeling issues addressed in the previous section may also have developed as an attempt to explain some of the complexity faced by Protective staff. Because of this complexity, it is important to delineate factors considered to be essential in identifying neglect.

Therefore, the following criteria are to be used in the screening and assessment of reports of neglected elderly persons. These criteria are presented as sequences and emphasize a systems approach rather than an individual perpetrator approach. The criteria are based on the statutory and regulatory definitions appended to this Program Instruction.

Sequence Number One: A Condition of Neglect Exists

- A. Unmet needs which have resulted or may immediately result in serious injury exist, AND
- B. The elder relies on and continues to want care provided, AND
- C. A support system of one or more caretakers (651 CMR 5.02) is identified, including family, friends and neighbors who are providing care without which the elder is at risk of injury. Persons contracted with to provide care and legal fiduciaries are considered caretakers. Agency service providers are not considered caretakers, OR
- D. The elder resides in the same household with a competent adult person. Excluded are minor children and adults adjudicated as incompetent by a court of law.
- E. The elder refuses care being provided and is believed to lack the capacity to consent to services.
- F. A condition of neglect exists. Protective Services.

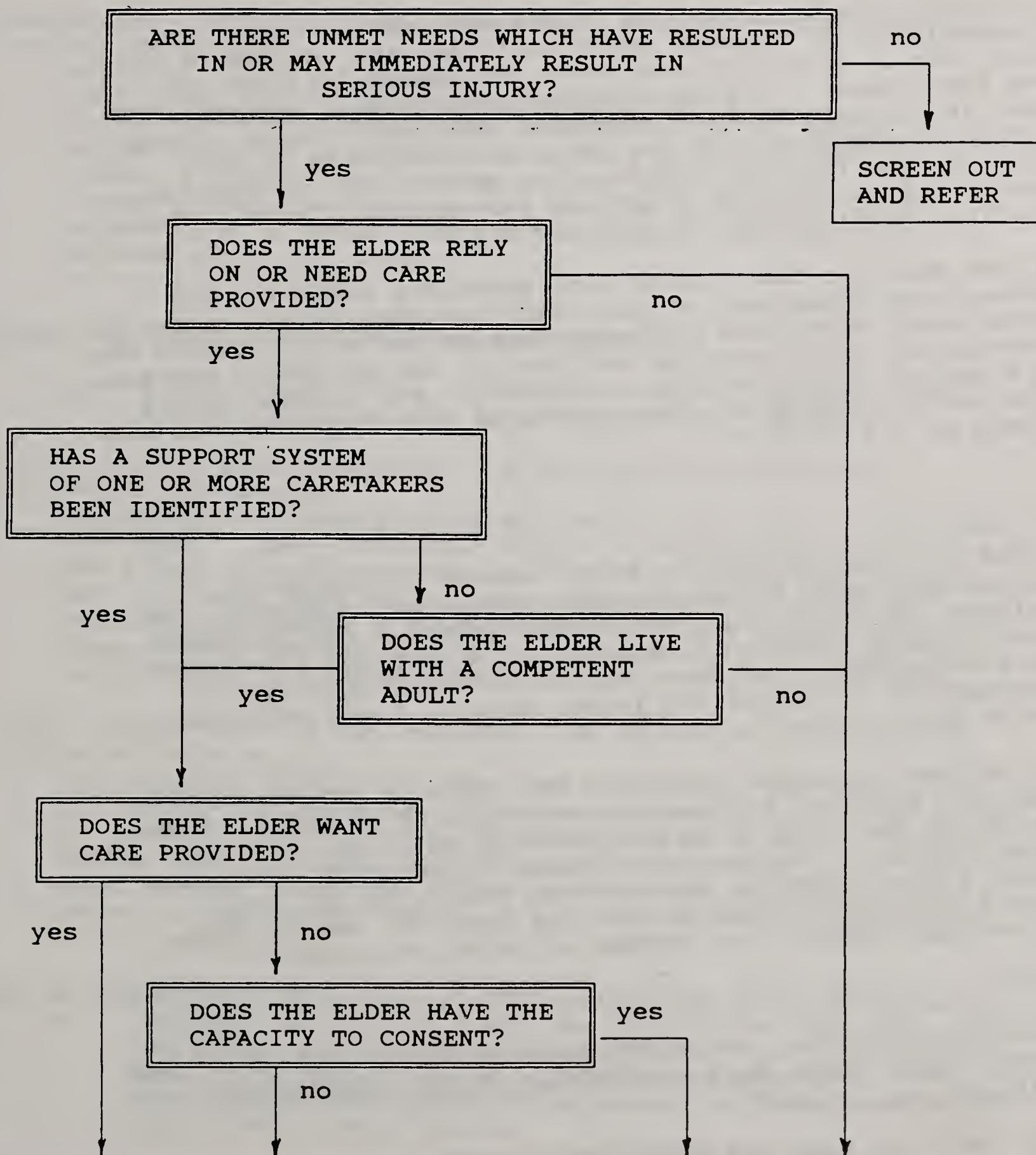
Sequence Number Two: A Condition of Neglect Does Not Exist:

- A. Unmet needs which have resulted or may immediately result in serious injury exist, AND
- B. No caretaker(s) can be identified. The elder may be receiving services from agency providers, OR
- C. Caretakers are identified and the elder refuses help, and is known to have the capacity to consent to services.
- D. A condition of neglect does not exist. Home Care Client, Elder At Risk, Referral to Other Agencies:

DECISION TREE:

The following diagram presents the above criteria in a question and answer form in order to provide assistance in decision making for screening and assessing possible neglect situations.

DECISION TREE FOR SCREENING AND ASSESSMENT OF REPORTS/INTAKES



CONDITION OF NEGLECT EXISTS:

PROTECTIVE SERVICES

CONDITION OF NEGLECT DOES NOT EXIST:

HOME CARE/ELDER AT RISK
OTHER AGENCY REFERRAL

CASE EXAMPLES:

The two case examples presented in the section on regulatory interpretations are repeated below to illustrate the use of the Decision Tree in screening and assessing reports of possible neglect situations. In each example, as in actual reports, the reporter is alleging that a reportable condition exists. This means that the condition of the elder is attributed by the reporter to "the failure or refusal by a caretaker to provide one or more of the necessities essential for physical, intellectual, and emotional well-being..." (651 CMR 5.02).

Use of the Decision Tree begins with questions regarding the seriousness and immediacy of the needs reported rather than with questions about caretakers. The identification of caretakers who meet regulatory definitions is not part of the screening process, but is a matter for Protective assessment. For a report to be screened in for assessment, the existence of caretakers need only be alleged by the reporter.

Case A

An 83 year old woman living in elder housing in Worcester is visited occasionally by her daughter who lives in Boston. On these visits, daughter sometimes brings mother a few groceries and usually takes mother out to dinner. Mother has never been much of a housekeeper and has always been somewhat forgetful. Her apartment is cluttered and rather dirty and she sometimes forgets to pay the rent.

Recently mother has begun to wander the halls of her building at night and her personal hygiene has deteriorated markedly to the point at which her friends in the building no longer want to associate with her. She does not appear to be buying groceries any longer and has stopped going to the meal site for lunch. Neighbors have been feeding her for the last two weeks. The housing manager reports that mother is being neglected.

Screening:

Using the Decision Tree, the first question to be asked is: Are there unmet needs which have resulted in or may immediately result in serious injury?

Yes: Personal care and nutritional needs are unmet as indicated by the reported conditions of wandering, poor hygiene, and significant changes in mother's behaviors regarding obtaining and eating meals.

The report is screened in for Protective assessment.

Assessment:

During the first visit with the elder, the caseworker observes the following facts:

- No food in the refrigerator
- The elder can not remember when she last ate
- Rotten food and trash cover the floors in all rooms
- Elder does not know the date, day, or time of day
- Elder's clothes are covered with stains and dirt
- Elder's body odor can be smelled from across the room
- Elder asks if caseworker knows where her neighbor is because elder is hungry
- Elder lives alone

Does the elder rely on or need care provided?

Yes: Elder has no food, no longer remembers to shop, and appears to rely upon her neighbor for meals.

During visits with neighbors, the caseworker obtains the following information:

Neighbors have been providing food to the elder for the past two weeks. They state that they are concerned about her, but are tired both of cooking for her and bringing her back to her apartment when she wanders. The neighbors have not contacted the elder's daughter because they do not have her phone number and because they keep expecting the elder to "snap out of it" as she has never acted this way before.

From a phone call to the daughter, the caseworker obtains the following information:

The daughter states that she has not visited or talked with her mother in two weeks. She was planning to call her mother to arrange a visit within the next couple of weeks. Daughter states that she usually visits her mother every month to six weeks or so. Daughter states that she was unaware of her mother's current difficulties and will make arrangements to visit tomorrow.

Has a support system of one or more caretakers been identified?

No: Neither the neighbors nor the daughter either live with the elder or maintain a physical presence in the elder's home on a regular basis. Nor do they provide substantial assistance of permanent duration upon which the elder clearly relies.

Does the elder live with a competent adult?

No: The elder lives alone.

Neglect is not confirmed as a result of assessment.

The caseworker makes an immediate referral to Home Care and arranges to meet the daughter and casemanager at mother's home the next day.

Case B

Several relatives have cared for a frail, marginally competent elderly man daily for over a year. They bring groceries, cook, do laundry, fill prescriptions, pay bills, and clean his home at his request. When the elder becomes bedbound and is no longer able to meet his own personal care needs, his relatives do not provide personal care for him nor do they arrange for his personal care needs to be met. The elder becomes increasingly confused and develops infected decubiti. A report of neglect is made by the elder's attending physician after the physician examines and treats the elder at the elder's next regularly scheduled appointment.

Are there unmet needs which have resulted in or may immediately result in serious injury?

Yes: The physician has confirmed that there are personal care needs that have not been met and which have resulted in serious injury as evidenced by the infection.

The report is screened in for Protective Assessment.

Assessment:

During the assessment the caseworker determines the following information:

The physician and elder's neighbors and friends have witnessed the care that relatives have provided over the past year. Neighbors and friends heard the elder ask to be moved, to have his clothes changed, and to be bathed when elder first became bed bound. When asked specific and concrete questions about his personal care needs by the caseworker, the elder was able to answer that he would like to be cleaner and would like to have his position changed more often.

Does the elder rely on or need care provided?

Yes: Medical evidence, the elder's expressed wishes, and the observations of neighbors, friends and the case worker show that the elder both relies on and needs grocery shopping, meal preparation, laundry, medications, money management, house cleaning and, now, personal care to be provided for him.

Has a support system of one or more caretakers been identified?

Yes: The relatives have maintained a physical presence in the elder's home on a regular basis. They have also provided substantial assistance of permanent duration upon which the elder clearly relies.

Does the elder want care to be provided?

Yes: The elder has specifically stated that he wants to be bathed, changed and moved.

Neglect is confirmed as a result of the assessment. The caseworker begins to formulate a service plan.

Questions about this Program Instruction should be directed to your Regional Protective Services Supervisor. Training regarding this policy will take place at Protective Services Regional Meetings.

PJL/PLF/ac

"Abuse," an act or omission which results in serious physical or emotional injury to an elderly person; provided, however, that no person shall be considered to be abused or neglected for the sole reason that such person is being furnished or relies upon treatment in accordance with the tenets and teachings of a church or religious denomination by a duly accredited practitioner thereof.

651 CMR 5.02

Reportable Condition.

(a) Acts. Acts include either or both of the following:

1. Physical Abuse: The non-accidental infliction of serious physical injury to an elderly person.
2. Emotional Abuse: The non-accidental infliction of serious emotional injury to an elderly person.

(b) Omissions. Omissions include the following:

Neglect: The failure or refusal by a caretaker to provide one or more of the necessities essential for physical, intellectual, and emotional well-being, such as food, clothing, shelter, social contact, personal care, and medical care, which results in serious physical or emotional injury to an elderly person.

M.G.L. c.19A. s.14

Caretaker, the person responsible for the care of an elderly person, which responsibility may arise as the result of a family relationship, or by a voluntary or contractual duty undertaken on behalf of an elderly person, or may arise by a fiduciary duty imposed by law.

651 CMR 5.02

Caretaker. The person responsible for the care of an elderly person, which responsibility may arise as the result of a family relationship, or by a voluntary or contractual duty undertaken on behalf of an elderly person, or may arise by a fiduciary duty imposed by law.

a) Responsibility arising from a family relationship. A husband, wife, son, daughter, brother, or sister, or other relative of an elderly person shall be presumed to be a caretaker if (s)he is living with the elderly person on a regular basis or is otherwise acting in the role of caretaker by providing substantial assistance to the elderly person which would lead a reasonable person to believe that s(he) is acting in the role of caretaker.

b) Responsibility arising from a fiduciary relationship imposed by law. A Guardian of the person and estate of an elderly person appointed by the Probate Court pursuant to M.G.L. c.201 shall be a caretaker. A conservator of an elderly person appointed by the Probate Court pursuant to M.G.L. c. 201, shall be caretaker of said elderly person to the extent that s/he must apply the assets of the estate of the elderly person to provide the necessities essential for the physical, intellectual and emotional well-being of the elderly person. The attorney-in-fact, holding a power of attorney or durable power of attorney pursuant to M.G.L. c.201B, shall be caretaker of the elderly person granting such a power to the extent that the power of attorney or durable power of attorney requires her/him to apply the assets of the elderly person to provide the necessities essential for the physical, intellectual and emotional well-being of the elderly person.

c) Responsibility arising from a contractual relationship. A person who is responsible for the care of an elderly person and receives monetary or personal benefit or gains as a result of a bargained for agreement with the elderly person to act as a Caretaker shall be a caretaker. A homemaker, home health aide, case manager, visiting nurse or employee of a Homemaker Service Agency, Home Care Corporation or Agency, or Visiting Nurses Association shall not be a caretaker under this definition.

d) Responsibility arising out of the voluntary assumption of the duties of Caretaker. A person who undertakes a voluntary duty of care for an elderly person shall be presumed not to be a caretaker unless one or more the following criteria are met by the reputed caretaker:

1. The reputed caretaker is living in the household of the elderly person.
2. The reputed caretaker is related to the elderly person and (s)he has acted or is acting by providing substantial assistance or in such a manner as to lead a reasonable person to believe that (s)he is acting as a caretaker.
3. The care being rendered by the reputed caretaker is a permanent and not temporary duration in that the reputed caretaker maintains a physical presence in the household on a regular basis.
4. The elderly person by her/his actions, statements, or behavior, indicates reliance upon the reputed caretaker for care in such a manner that a reasonable person would believe that the reputed caretaker is being relied upon by the elderly person to care for her/him.
5. The reputed caretaker, by her/his actions, statements, or behavior, indicates voluntary assumption of the obligation of caretaker in such a manner that a reasonable person would believe that the reputed caretaker is being relied upon to care for the elderly person.



The Commonwealth of Massachusetts
Executive Office of Elder Affairs
38 Chauncy Street, Boston, Mass. 02111

MICHAEL S. DUKAKIS
 GOVERNOR

PAUL J. LANZIKOS
 SECRETARY

PROGRAM INSTRUCTION

EOEA-PI-90-09

REF: EOEA-IM-87-54

TO: Elder At Risk Agencies
 FR: Paul J. Lanzikos *Lanzikos*
 RE: Informed Consent and Release of Information Form
 DT: February 9, 1990

In 1987, the Executive Office of Elder Affairs worked with the existing Elder At Risk Agencies to develop and implement standardized forms for the Elder At Risk Program (Refer to EOEA-IM-87-54). At that time, Elder Affairs did not issue a standardized consent form. Rather, the agencies were instructed to develop their own consent forms or to utilize currently existing individual agency forms.

The purpose of this Program Instruction is to introduce the new standardized consent and release of information form and instructions for completion. Elder At Risk Agencies should begin to use this form immediately for all new clients, to the exclusion of any other consent form. For clients being served presently, the new consent form should be implemented concurrently with the next three month reassessment of the service plan.

Please contact any Regional Supervisor if you have questions about this Program Instruction.

PJL:FJ/FJ

INSTRUCTIONS FOR COMPLETION
OF THE
ELDER AT RISK
INFORMED CONSENT AND RELEASE OF INFORMATION FORM

Introduction

Elder At Risk Services are provided to elders on a voluntary basis. Written consent to services is obtained to insure that the purpose of the program has been explained to the elder and that the elder has accepted Elder At Risk intervention.

Elders in need of Elder At Risk intervention often display varying degrees of resistance to services. This may affect the provider agency's ability to obtain the elder's written consent. Therefore, for the purpose of this program, consent may be obtained in other than only written form. Indications of the elder's consent may take the form of accepting home visits or telephone contacts or accepting other offers of service (e.g. accepting the caseworker's offer to contact other professionals or accepting advocacy by the caseworker on behalf of the elder).

The use of the consent form also protects the elder's right to determine which, if any, agencies or individuals may be contacted for the sharing of information needed to achieve service coordination (M.G.L. c.66A s.2(c)). It is important to cross out all unused lines in this section of the consent form to insure the elder's protection of this right.

Elder Unwilling To Sign

In those cases where the elder is unwilling to sign the consent form, but verbally or in some other way indicates to the caseworker that continued involvement will be acceptable, intervention may be allowed. The Elder At Risk caseworker must document the way in which consent was provided in the progress notes, in addition to listing the agencies or individuals approved for contact on the consent form. A note referring to the progress note should be indicated on the unsigned consent form. Continued effort should be made to obtain written consent to services.

In situations where the elder refuses to sign the consent form and in no manner agrees to intervention, services will not be provided.

Elder Unable To Sign

If an elder is unable, due to physical incapacity or illiteracy to sign his/her name, the caseworker should attempt to secure the client's "X" on the consent form and, where possible, have a third party witness the "X" and sign the consent form as a witness identifying his/her relationship to the elder. A brief statement explaining the elder's inability to sign should be recorded in the progress notes.

If the elder cannot make an "X", the caseworker should document in the progress notes how the elder conveyed consent (e.g. oral consent, a nod of the head, accepting home visits, telephone contact), in addition to listing the agencies or individuals approved for contact on the consent form. The progress note should be referenced on the consent form. Every effort should be made to have a third party witness the elder's consent to services.

In situations where the elder is unable to sign the consent form and in no manner agrees to intervention, services will not be provided.

Elder Believed To Lack The Capacity To Consent

In situations in which it is believed that the elder lacks the capacity to provide written consent, but is able to understand and accept, to some degree, the purpose and services of the Elder At Risk Program, an explanation of the program should be offered in a way suitable to the elder's level of understanding. This explanation and elder's response indicating consent must be documented in the progress notes, in addition to listing the agencies or individuals approved for contact on the consent form. The consent form would not be signed by the elder but the progress note should be referenced on the consent form.

In situations in which it is believed that the elder lacks the mental capacity to understand and accept the purpose and services of the Elder At Risk Program and in no manner indicates consent, no services shall be provided to the elder other than as follows:

1. Contacts may be made for intervention in emergency situations (e.g. Physician, Police, Ambulance, Fire Department). Emergency is defined as "a situation in which an elder is living in conditions which present a substantial risk of death or immediate and serious physical or mental harm". (651 CMR 5.02)
2. The Elder At Risk caseworker may seek to obtain a competency evaluation of the elder using community resources.

3. Depending on the results of that evaluation, the caseworker may seek court appointment of a guardian through available options (e.g. court appointed attorney, voluntary individual or organization).

Executive Office of Elder Affairs

Elder At Risk

Informed Consent To Services and Release of Information

I have been advised of and understand the purpose of the Elder At Risk Program and understand that in signing this form I am agreeing to accept Elder At Risk Services provided by the following Elder At Risk Agency, funded by the Executive Office of Elder Affairs:

This consent form shall remain valid for up to a six (6) month period beginning the date signed below, unless I revoke my consent prior to that time.

Name of Client

Signature of Client

Date

The above named agency has my permission to give relevant information about me to the following agencies and individuals and to receive information from them about me, including medical records, in order to coordinate services for my benefit. I understand that the agency will take care to protect my dignity and privacy.

Agency/Individual

Relationship

Phone

Signature of Client

Date



The Commonwealth of Massachusetts
Executive Office of Elder Affairs
38 Chauncy Street, Boston, Mass. 02111

MICHAEL S. DUKAKIS
GOVERNOR

PAUL J. LANZIKOS
SECRETARY

PROGRAM INSTRUCTION

EOEA-PI-90-18

TO: Designated Protective Services Agencies
FROM: Paul J. Lanzikos *Paul J. Lanzikos*
DATE: March 21, 1990
RE: Notification of Assessment

As part of the on-going process of developing standards of practice for the Protective Services Program, Elder Affairs is revising standardized forms consistent with the focus of the program. While we would like to be able to disseminate all revised forms as a package, this would substantially delay the implementation process. At this time, Elder Affairs is issuing a revised Notification of Assessment Form which is to be implemented upon receipt.

It is expected that all elders who are the subject of an investigation will receive a copy of the written notice at the time of the initial assessment visit. The Protective Services caseworker shall ensure that the elder understands the content of the notice and the assessment process by reading the Notification of Assessment, if necessary, and by explaining it in a way suitable to the elder's level of understanding.

In cases where the Protective Services caseworker is unable to visit or speak with the elder alone, factors placing the elder at-risk should be considered in determining when and how to present the written notice. If the caseworker is unable to conduct an in-person interview with the elder, risk factors should also be considered in determining the appropriateness of mailing the Notification of Assessment.

A dated copy of the Notification of Assessment shall be included in the Protective Services case file and the method of delivery and explanation to the elder documented in detail in the Progress Notes. Any exceptions to the standard method of notification shall be initialed by the supervisor.

Elder Affairs will expect each Protective Services Agency to have the capacity to present the Notification of Assessment in the elder's primary language.

Date

Dear

(Agency Name) is the local Protective Services Agency authorized to receive reports of suspected abuse or neglect of persons age sixty and over.

We have recently received a report and need to speak with you and people you know in order to assess your specific situation. We may, with your consent, be able to offer you some in-home services or assist you in finding other community resources.

Any information we receive about you will be held in confidence, in accord with Chapter 66A of the General Laws. You may review any information that we record about you or your situation. If there is no verification of the report, we will remove all personal information from our records.

The caseworker assigned to your case is _____ (Phone #) for and can be contacted at _____ for any questions or concerns.

We hope that we may be of help to you.

Sincerely,

Supervisor



The Commonwealth of Massachusetts
Executive Office of Elder Affairs
38 Chauncy Street, Boston, Mass. 02111

MICHAEL S. DUKAKIS
 GOVERNOR

PAUL J. LANZIKOS
 SECRETARY

PROGRAM INSTRUCTION

EOEA-PI-90-17

TO: Elder Abuse Hotline
 FR: Paul J. Lanzikos *[Signature]* *Mar 31/90*
 DT: March 22, 1990
 RE: Elder Abuse Hotline Statistics

The Executive Office of Elder Affairs is issuing a revised Elder Abuse Hotline Statistics Form which will allow Elder Affairs to computerize monthly statistics used in program management and reporting to the Legislature.

Use of the revised Hotline Statistics Form will begin for the month of April 1990, and will replace the current form. As before, statistics should be received no later than the 15th of the following month.

Instructions on the completion of this form are attached.

Questions about this form should be directed to Craig Fox, Western Regional Protective Services Supervisor.

INSTRUCTIONS FOR COMPLETING THE ELDER ABUSE HOTLINE STATISTICS FORM

Section I: Cases Handled

Record the number of cases handled by the Elder Abuse Hotline during the month. Cases should be categorized by New or Open Cases, Protective Services or Home Care Cases, and Emergency (E) or Routine or Non-Emergency Cases (R) and recorded as received during either Business Hours or After Hours. For example, a new Protective Services referral screened as an emergency and received on a Saturday would be recorded as one case in Box B, although several persons may have called to report.

The number of persons provided information and referral should be recorded in boxes designated "I + R".

Other cases handled, for example chronic callers that do not fit under New or Open Protective Services or Home Care Cases, should be recorded under "Other".

Lines and columns should be totaled.

Section II: Number of Cases Which Involved:

Direct Emergency Response: Record the number of cases in which Elder Abuse Hotline Staff contacted police or ambulance for emergency assistance prior to contacting the On-call Caseworker. This refers to cases considered "absolute emergencies".

EOEA Staff Consults: Record the number of cases in which the Regional Supervisor or other EOE A staff were paged for consultation. This does not include non-case specific paging such as contacting a Regional Supervisor to relay information from other EOE A staff.

Lines should be totaled.

Section III: Number of Calls:

Incoming Calls Received: Record the total number of phone calls received during Business Hours and After Hours, and total the line.

ELDER ABUSE HOTLINE STATISTICS
 Protective Services Program
 Executive Office of Elder Affairs

CASES HANDLED		Business/ Hours 9AM-5PM	After Hours Weekends/ Evenings 9AM-5PM 5PM-9AM	Line Ttls
N E W	PS	E A	B	C
	HC	R		D
C A S E S	PS	E G	H	E
	HC	R		F
O P E N	PS	E G	H	I
	HC	R		J
C A S E S	PS	E		K
	HC	R		L
I + R				M
OTHER				N
SUBTOTALS		O	P	Q

NUMBER OF CASES WHICH INVOLVED:

DIR EMERG RESPONSE			R
EOEA STAFF CONSULTS	S	T	U

NUMBER OF CALLS:

INCOMING CALLS RECEIVED	V	W	X
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The Commonwealth of Massachusetts
 Executive Office of Elder Affairs
 38 Chauncy Street, Boston, Mass. 02111

MICHAEL S. DUKAKIS
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PAUL J. LANZIKOS
 SECRETARY

PROGRAM INSTRUCTION

EOEA-PI-90-37

REF: EOEA-PI-90-22

TO: Elder At Risk Agencies
 FR: Paul J. Lanzikos *Paul J. Lanzikos*
 RE: Revised Elder At Risk Statistics Form
 DT: June 26, 1990

The purpose of this Program Instruction is to issue the revised Elder At Risk (EAR) Statistical Reporting Form and a client numbering system for the EAR Program. In addition to maintaining accurate information about the target population, monthly data collection serves to guide program development and to highlight future resource needs for the EAR Program.

A draft version of this form was introduced in April, 1990, (EOEA-PI-90-22) with a request for comments and recommendations for improving both the reporting tool and the instructions. Based on the recommendations received and on additional requirements of the computerization process, changes have been made which clarify the use of this form and improve its effectiveness.

The most significant modifications to the Statistical Reporting Form have been the addition of the reporting categories of "Screened Out" and "Assessed Out." The attached Instructions and Statistical Codes explain the use of these additional categories. Other modifications are minor and consist of clarifications in the Instructions for the form's completion.

CLIENT NUMBERING SYSTEM:

As stated in EOEA-PI-90-22, Elder Affairs' client numbering system is to begin on July 1, 1990. Starting with all existing open cases and intakes being assessed as of July 1, 1990, each EAR Agency will assign a client number to each individual starting with the number "1" and continuing in sequence until all current open cases and intakes in assessment are numbered.

Each intake received during July, 1990, should also be numbered sequentially after existing cases and intakes in assessment have been numbered. The first new intake as of July 1, 1990, should be assigned the next number in sequence following the last numbered open case or intake in assessment.

All subsequent new intakes will be assigned numbers in sequence at the point of intake. An intake received on a previously open case which was closed prior to July 1, 1990, shall be considered a new case and assigned a new number. An intake received on a previously open case which was closed after July 1, 1990, shall be considered a reopened case and given the case number previously assigned. An intake received on a case previously screened out or assessed out shall be considered a new intake and assigned a new case number.

COMPLETION OF THE REVISED STATISTICAL REPORTING FORM:

Beginning with caseload information gathered during July, 1990, please complete the attached revised Statistical Reporting Form, including all current cases as of July 1, 1990, all intakes in assessment and all new intakes received during the month. This information shall be entered under status N. If the case has been terminated in July, enter all information under status N/T. For each subsequent month, only new and reopened referrals (status N or R) and editing and termination information (status E or T) will be reported on the statistics form.

If the assessment carries over to the next month editing changes will be necessary. The only editing changes will be the addition of the med/psych factor, risk factor, date of birth and reason assessed out.

Once the med/psych factor and risk factor are reported after assessment, they are not to be changed on future Statistical Reporting Forms. Although the initial med/psych and risk factors

may change over time, Elder Affairs is interested in collecting data only on those factors which were of primary importance in originally placing the elder at risk.

When reporting editing information or termination information on a current case, it is only necessary to include the status, client number and new information. When reporting information on "Screened Out" or "Assessed Out" new or reopened intakes, only the status, client number, intake date and reason "Screened Out" or "Assessed Out" needs to be included. When a case is opened and closed during the same month all information, including med/psych factor, risk factor, termination date and reason for termination may be reported as a new or reopened referral and terminated (status (N/T or R/T)).

These forms should be sent no later than August 15, 1990, to:

Fran Joseph, Regional Supervisor
Executive Office of Elder Affairs
38 Chauncy Street
Boston, MA 02111

All future reports are due on the fifteenth of the month following the month being reported and should be mailed to Fran Joseph. If there are no new referrals and no changes, please write, "No Change" across the form. No other information is necessary.

Statewide training on the Elder At Risk Statistical Reporting Form will be held prior to August 15, 1990, and will be announced in an Information Memorandum to be issued in early July, 1990.

For purposes of both program review and data analysis, Elder Affairs will consider EAR cases to be opened after an assessment decision that the elder is at risk has been made. All intakes will continue to be screened for appropriateness, but cases will not be considered as opened until the assessment has been completed. The screening decision will continue to be made within 48 hours from the time of intake.

Please contact your Regional Supervisor if you have any questions about this Program Instruction.

**THE EXECUTIVE OFFICE OF ELDER AFFAIRS
ELDER AT RISK STATISTICAL REPORTING FORM**

Service Area Code: _____

tency: _____

Report Submission Date: _____ Completed By: _____

Completed By: _____

Year: _____

* Screened Out

** Assessed Out

ELDER AT RISK PROGRAM STATISTICAL CODES

Status

N - New
R - Reopened
E - Edit
T - Terminate

Referral Source

1-Client
2-Family/Friend/Neighbor
3-Home Care Corporation
4-Homemaker/Home Health Agency
5-VNA
6-Hospital
7-Church/Synagogue
8-COA
9-Police
10-Adult Day Health/Social Day
11-EMT
12-Nutrition Site
13-Housing Authority
14-Landlord/Bldg. Manager
15-Mental Health Center
16-Dept. of Public Health
17-Court
99-Other (please specify on form)

Med/Psych Factor

1-Mental Health Problems
2-Alcohol Abuse
3-Drug Abuse
4-Physical Illness/Acute
5-Physical Illness/Chronic
(Other than Dementia)
6-Dementia
77-None
88-To Be Determined
99-Other (please specify on form)

Risk Factor

1-Housing
2-Nutrition
3-Financial
4-Medical
Noncompliance
5-Personal Care
6-Personal Safety
77-Cultural/Ethnic/Linguistic Barriers (please specify on form)
88-To Be Determined
99-Other (please specify on form)

Reason Screened Out

1-Not Appropriate/Ref. To Protective Services
2-Not Appropriate/Ref. To Other Program/Agency
3-Not Appropriate/No Referral
4-Caseload At Capacity

Reason Assessed Out

1-Not Appropriate/Ref. To Protective Services
2-Not Appropriate/Ref. To Other Program/Agency
3-Not Appropriate/No Referral

Sex

1-Female
2-Male

Ethnicity

1-White
2-Black
3-Hispanic
4-Asian
5-Portuguese
6-American Indian
99-Other (please specify on form)

Boston Community Code

See Attached List

Living Arrangement

1-Alone
2-With Spouse/Signif. Other
3-With Other Family
4-With Friend
5-With Other

Reason for Termination

1-Client No Longer At Risk
2-Client No Longer At Risk/Guardian Appointed
3-Client Refused Services
4-Client Died
5-Client Moved Out Of Area
6-Client Institutionalized
7-Referral To Protective Services

INSTRUCTIONS FOR COMPLETING ELDER AT RISK STATISTICS FORM

Status:

Enter - N if client is new to your agency's EAR program.
- R if a closed case is being reopened.
- E if new information is being added to a current client's file (medical/psych factor, risk factor, D.O.B., reason assessed out).
- T if case is being closed.
(add term. date and reason for termination)

Client Number:

Enter client # assigned by your agency. If client has been involved with your agency's EAR program previously, as an open case, enter same # as previously assigned.

Intake Date:

Enter MM-DD-YY your agency received intake.

Referral Source:

Enter code that indicates the source of the intake. If other, please specify.

Reason Screened Out:

Enter code that indicates the reason for screening out case.

Reason Assessed Out:

Enter code that indicates the reason for assessing out case.

Medical/Psych Factor:

Enter code that indicates the factor placing the client at risk. If more than one choice seems appropriate, include all codes that apply. If other, please specify. This information should be completed following assessment. Therefore, it may be necessary to add this information the month following intake by editing information on current client (status E). Until information is known, enter code 88-To Be Determined.

Risk Factor:

Same as instructions for Medical/Psych Factor.
A Cultural/Ethnic/Linguistic Barrier (code 77) does not in itself justify inclusion in the EAR program. Therefore, if code 77 is selected, it must be chosen in conjunction with one or more other risk factors. Please indicate specific barrier on form.

Date of Birth:

Enter MM-DD-YY.
Until information is known, enter 00-00-00. If date of birth is determined the month following intake, it may be added by editing information on current client (status E).

Sex:

Enter 1 for Female
2 for Male

Ethnicity:

Enter code that indicates client's ethnic identification. If it is relevant to make a more specific distinction, please specify on form next to the selected code (eg: 2 Haitian or 3 Cuban). Do not distinguish specific identities of assimilated ethnic groups (eg: 1 Irish). If other, please specify.

Boston Community Code:

*For Boston Agencies only.
Enter code that indicates the neighborhood where client resides on a permanent basis.

Living Arrangement:

Enter code that indicates client's current living arrangement.

Termination Date:

Enter MM-DD-YY.

Reason for Termination:

Enter code that indicates the reason case is being closed.

SERVICE AREA CODES

<u>Older At Risk Service Area</u>	<u>Code</u>
Baypath Service Area	11
Bristol Service Area	12
Central Boston Service Area	13
Chelsea/Revere/Winthrop Service Area	14
Coastline Service Area	15
Worcester Service Area	16
Berkshire Service Area	17
Cape & Islands Service Area	18
Merrimack Valley Service Area	19
Franklin Service Area	20
Greater Lynn Service Area	21
Greater Springfield Service Area	22
Health and Social Services Service Area	23
Highland Valley Service Area	24
Holyoke-Chicopee Service Area	25
Minuteman Service Area	26
Montachusett Service Area	27
Mystic Valley Service Area	28
North Shore Service Area	30
Old Colony Service Area	31
Cape Ann Service Area	32
Senior Home Care-Boston III Service Area	33
Somerville-Cambridge Service Area	34
South Shore Service Area	35
Southwest Boston Service Area	36
West Suburban Service Area	38
Ecumenical Social Action Committee	39
Boston Minority Contract	
Chinese Golden Age Center	40
Boston Minority Contract	

EAR AT RISK BOSTON COMMUNITY CODES

<u>Elder At Risk Service Area</u>	<u>Code</u>
Central Boston Service Area	
Back Bay	1
Brighton	2
Dorchester	3
Fenway	4
Jamaica Plain	5
Parker Hill	6
Roxbury	7
South End	8
Senior Home Care-Boston III Service Area	
Beacon Hill	9
Charlestown	10
Chinatown	11
Columbia Point	12
Dorchester	13
East Boston	14
Mattapan	15
North End	16
South Boston	17
Southwest Boston Service Area	
Hyde Park	18
Roslindale	19
Jamaica Plain	20
Mattapan	21
Roxbury	22



The Commonwealth of Massachusetts
Executive Office of Elder Affairs
38 Chauncy Street, Boston, Mass. 02111

MICHAEL S. DUKAKIS
 GOVERNOR

PAUL J. LANZIKOS
 SECRETARY

PROGRAM INSTRUCTION

EOEA-PI-90- 42

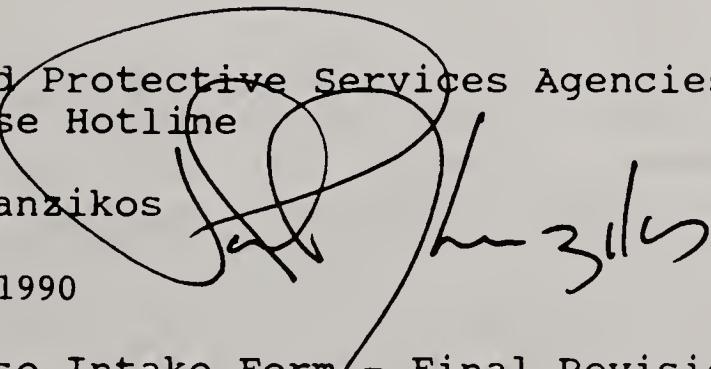
Reference PI-88-17
 PI-89-36
 PI-89-62
 PI-89-73
 PI-90-24

TO: Designated Protective Services Agencies
 Elder Abuse Hotline

FROM: Paul J. Lanzikos

DATE: August 10, 1990

RE: Elder Abuse Intake Form - Final Revision


Paul J. Lanzikos

The Elder Protective Services Program has completed a final revision of the Elder Abuse Intake Form following a field test ending in March 1990 [Ref PI-89-62].

Please note that some changes were made in content and structure of the Intake. Revisions have been made to incorporate comments and recommendations of Protective Services Staff and respond to recent changes in Chapter 19A which make financial exploitation a reportable condition.

Questions about the completion of the Intake Form should be directed to your Regional Protective Services Supervisor.

To obtain additional copies of this form, written requests should be submitted to Michael Di Gregorio.

INSTRUCTIONS FOR COMPLETING THE ELDER ABUSE INTAKE FORM (DCI 1)

The Elder Abuse Intake shall be completed in accord with PI-89-73 and PI-89-36.

A separate Intake Form shall be completed for each elder alleged to be suffering from abuse or neglect.

The Intake or Hotline Worker shall complete the informational section of the Intake. The screening section shall be completed by the Protective Services Supervisor or designated backup supervisor. Screeners are also responsible for reviewing the Intake and insure that all necessary information is present and correct.

The Intake Form and Elder Abuse Hotline Referral portion of the Intake will be completed by the Elder Abuse Hotline for all Protective Services cases, emergency and non-emergency, new and open cases, for which a report of abuse or neglect is made. Cases involving callers requesting a response on open Protective Services cases, do not require the completion of the entire Intake Form; the Elder Abuse Hotline Referral section of the Intake shall be completed. Calls received on open Protective Services cases in which the caller is making a report shall have the entire Intake completed [Ref. PI-89-36: Intake Standards of Practice]. Home Care cases coming into the Hotline will be referred to Home Care Agencies, using the Elder Abuse Hotline Referral section of the Intake form. Referrals from the Hotline will continue to be made on the next business day. This includes contact by phone and the mailing of forms to Protective Services and Home Care Agencies. The entire Intake form, except for page 6 [PS agency screening section], will be copied and mailed to the Protective Services Agency on the next business day. The Hotline Referral Form (HRF) is eliminated [Ref. PI-88-17].

The entire Intake Form shall be completed by the Protective Services Agency prior to sending a copy of the form to Craig Fox, Western Regional Protective Services Supervisor [Ref. PI-90-24]. Copies of Intake forms, completed by Hotline staff, should not be sent to Elder Affairs.

INTAKE INFORMATION SECTION

CASE NUMBER This eight (8) digit client number should be completed in accord with PI-90-35. Record the Agency Code in the first two (2) boxes. Protective Services Agency Codes are attached. Boxes 3 and 4 should have recorded the last two (2) digits of the current fiscal year. Boxes 5, 6 and 7 shall have a sequential number entered, beginning each fiscal year with 001. Box 8 shall have a household code entered, beginning with 1 for the first elder for whom abuse or neglect is alleged. One elder residing at home always has a household code of 1. Other elders living in the household shall have the same case number for boxes 3 through 7; box 8 continues with 2 and so on for other elders, alleged to be abused and neglected, residing in the same household. Elders residing in Boarding homes are not considered to be living in the same household. Reports received on elders whose cases have been closed, shall use the same case number.

DATE Enter the month - day - year that the report is called in to the Intake or Hotline Worker. For Reports received by Designated Protective Services Agencies from the Elder Abuse Hotline, the date that the Protective Services Agency received the Report shall be entered.

TIME Enter the time that the report is called in and circle AM or PM. The time that the Protective Services Agency received the Report shall also be entered, for those reports received from the Elder Abuse Hotline.

CLIENT NAME Record the full name of the elderly person allegedly suffering from abuse or neglect. If unknown, write in UNKNOWN.

ADDRESS Record the permanent address to include Apartment/ Street/Box number, Town or City, and State if other than Massachusetts.

TELEPHONE Enter client area code and phone number.

TEMPORARY
ADDRESS
TELEPHONE Record address and telephone of temporary residence, or the present location/whereabouts of the client, if other than the permanent address.

REPORTER
NAME Record the full name of the reporter, or note UNKNOWN if the reporter refuses to disclose his/her identity. Reports received from the Elder Abuse Hotline by Protective Services Agencies shall have recorded the name of the Reporter calling the Hotline. Do not list the Hotline Worker name.

AGENCY NAME/
ADDRESS
TELEPHONE Record the address and telephone number of the reporter, or in the case of a mandated reporter, record the name of the agency represented, town and agency telephone number. Do not list the Elder Abuse Hotline as the reporting agency; record the Agency Name, Address and Phone of the Reporter calling the Hotline.

HOTLINE
REFERRAL The Hotline Referral Box shall be checked to indicate that the initial Report was received by the Elder Abuse Hotline. This box should be checked by both Hotline and Protective Services Agency staff completing Intakes.

CLIENT AGE Enter the closest approximation of the client's age in years. Do not record date of birth. If no age is available, write in UNKNOWN.

SEX Mark one box for male or female.

REPORT
SOURCE For those reporters calling in a professional capacity, mark the box which best describes the agency or business which is represented. If no agency is represented, such as in the case of a self-report, mark line 77, "Not An Agency".

The Elder Abuse Hotline should not be listed as the Report Source.

Code #88 "Other" should have the type of agency or company written in.

OCCUPATION/RELATIONSHIP Indicate the occupation of a mandated reporter by marking a single box, codes 10 through 24.

Indicate the occupation or relationship of a non-mandated reporter to the client by marking a single box, codes 25 through 36. In cases where more than one occupation/relationship may apply, mark the first box which applies. For example, when reading down the list from code 25, for an adult child (who is also the client's guardian), the code 26 guard/conservator box would be checked, while the code 29 box is left blank. In cases where a family member may be a mandated reporter, record the appropriate familial relationship box, unless the Reporter requests to be listed as a mandated reporter.

Elder at Risk Caseworkers shall be listed as "Social Worker/Caseworker" - line #21.

Code #24 and #88 Other should have the occupation or relationship written in.

DESCRIPTION OF ALLEGED ABUSE/NEGLECT Describe in clear, specific and factual terms allegation(s) of abuse or neglect made by the reporter. Include information about the risk which Protective Services Caseworker may face in conducting the Assessment.

The following terms, which are often vague or used as labels, shall not be used in the Description of Alleged Abuse/Neglect: abuse, neglect, abuser, neglector, perpetrator or victim.

Allegations of Physical Abuse should have the names of persons involved in the alleged incident(s) documented; who did what to whom (the specifics regarding where elder was hit, what was used, how many times elder was hit, intensity of blows), and where the incident(s) took place; names, addresses and phone numbers of witnesses present; date(s) and times of incidents; precipitating factors, such as alcohol use or situational stresses; injuries caused and medical treatment for past incidents; the most recent incident or reason the reporter is calling at this time. Also include the present whereabouts of persons named.

Allegations of Emotional Abuse should, in addition to those kinds of specifics noted above for physical abuse, also include a description of threats, abusive language and coercion or intimidation of the elder. Whenever possible, allegations of emotional abuse should suggest a relationship between abusive actions, behaviors or language and a resulting effect on the emotional state or functioning of the elder. For example, it is alleged that a daughter began screaming at and threatening her elderly mother with nursing home placement six (6) months ago in order to extort money to support a drug habit. If the elder has become sullen, withdrawn and has stopped eating during the last several months, the behavior of the elder suggests the alleged behaviors of the daughter may be adversely affecting the elder's emotional state and physical functioning and so could constitute emotional abuse.

Allegations of Sexual Abuse should include information noted above. All available specific information about the alleged incidents of sexual assault should be recorded. Note whether the elder had a medical/gynecological exam following the alleged sexual assault, the date and time of the exam, name of the examining physician and names of any police or rape crisis professionals involved.

Allegations of Neglect should include a specific, factual description of the alleged current condition of the elder. List names of all known persons providing care without which the elder would suffer serious, physical injury. Note what care each person provides or provided, and specifically identify what care is not or is no longer being provided which has or is likely to result in serious physical injury.

Allegations of Death by Abuse or Neglect should include (in addition to information noted above), any statements made by the reporter suggesting that the primary cause of death was related to abuse or neglect. Facts to support or raise questions about this belief should be recorded. Names of persons with additional information may be noted, such as the physician signing the death certificate or police.

Allegations of Financial Abuse should include specifics as noted under Physical abuse, also to include specific information supporting the allegations of mismanagement or misappropriation of income or assets.

Other Allegations may be noted, such as tenant-landlord conflicts.

SUMMARY OF ALLEGATIONS

Check all boxes that apply. If, for example, emotional abuse and neglect are alleged, check both boxes. If no abuse, neglect or financial exploitation is alleged to have occurred, check the Other Allegations box.

FREQUENCY OF ABUSE/NEGLECT

Check one box in each column. For example, if physical abuse is occurring weekly and is increasing in frequency (for example, from one time per week to three times per week during the last month), the Weekly and Increasing boxes would both be checked. In a case of neglect, if for example a confused elder is left alone, wanders and becomes lost on the average of one time per month and this has not changed for the last six months, the Monthly and constant boxes would be checked.

For cases involving neglect, the frequency of neglectful actions forms the basis for which boxes are checked. For cases involving both abuse and neglect, the frequency of abuse or neglectful actions is noted for the type of abuse or neglect most likely to lead to the most serious further physical injury. The Episodic box would be checked for isolated or infrequent incidents. Indicate the frequency of episodes, if known. Record the date of the last incident - if known. An approximation should be used before checking the Unknown boxes.

SEVERITY OF ABUSE/NEGLECT

Check one box in each column based on the facts presented and in the opinion of the reporter. An approximation should be used before checking the Unknown boxes.

DURATION OF ABUSE/NEGLECT

Check the appropriate box indicating how long the abuse and/or neglect has been occurring. An approximation should be used before checking Unknown.

SPECIFIC
ALLEGATIONS

Check all boxes that apply. Please note that the Specific Allegations section of the Intake is not intended to be used as an interviewing tool, where the Intake Worker asks if each type of abuse is present. Instead, the intent of this section is to identify in summary form, for assessment, those allegations made during the initial information gathering documented in the Description of Alleged Abuse Incidents and/or Condition of Neglect. This is intended to ensure that all types of alleged abuse are investigated, particularly in complex cases involving multiple forms of abuse and neglect.

RISK OF
FUTURE
ABUSE
MEDICAL
TREATMENT

Record whether or not further abuse is likely to occur, and when, based on the facts presented and the opinion of the reporter. Check one box that applies; "Yes," medical treatment is or may be required immediately; "No," treatment does not appear to be needed immediately, or "Unknown." The purpose of this information is to determine the need for an emergency response.

DIAGNOSIS/
TREATMENT
NEEDED

Indicate the medical condition or injury needing emergency treatment. In the absence of expert medical judgment, available information given by the reporter shall be noted.

PERSONS
PROVIDING
CARE
AND
OTHER
PERSONS
NAMED

Record the names, ages, addresses and phone numbers of persons, including family, friends, neighbors, hired caretakers and fiduciaries, providing care to the elder without which the elder would be at risk of serious physical injury. The relationship of each person to the elder should also be noted. Information that is unknown may be left blank. Agency personnel providing care should be noted under "Other Persons Knowledgeable of the Elder".

Also record the names, ages, addresses and telephone numbers of other persons named in the description of the abuse incident. This refers to persons who are not care providers, who have (allegedly) physically, emotionally, sexually or financially abused the elder.

Additional names and data may be recorded in the Case Notes section of the Intake.

PERSONS AWARE Check all boxes which apply. If the elder is aware A REPORT HAS that a report has been made, check the Elder box. BEEN MADE Check boxes 1 through 6, which refer to those persons named above providing care or are alleged to have been abusive who are aware that a report has been made. Check none if no one is aware a report is being made, and unknown if applicable.

OTHER KNOWLEDGEABLE PERSONS Record the names, addresses/agency names and phone numbers of other persons who may be knowledgeable of the alleged abuse or condition of neglect. For those persons who are not professionals representing an agency, note his/her relationship to the elder.

PREFERRED LANGUAGE Check one or more boxes indicating the elder's preferred language(s). If the preferred language is other than English, and the elder is able to communicate in English, check both the appropriate language box and the English Spoken boxes. Note other barriers to communication, such as difficulty hearing or a speech impediment caused by stroke.

ACCESS TO ELDER/ RESPONSE Check all boxes which apply regarding Protective Services Caseworker access to the elder for the completion of the Assessment. Other barriers to the completion of the Assessment which are present should be noted. Check unknown if no information is present about access.

ELDER'S RESPONSE If the elder is aware a report has been made, note the elder's willingness to accept assistance by checking the appropriate box(es). Check unknown if the elder's response is not known.

MENTAL STATUS Check one box which best describes what is believed to be the elder's current mental status. In the absence of a recent determination of a competency examination, the opinion of the Intake Worker should be based on facts presented by the reporter. The Alert/Oriented box should be checked if the elder is believed to be able to make informed judgments regarding his/her own safety, and has the capacity to consent to, or refuse Protective Services. If the elder has been observed to be confused and disoriented, raising a concern that s/he may not have the capacity to consent to or refuse assistance, the Confused/Disoriented box should be checked. The Unknown box may be checked if no information about the elder's mental status is available.

RISK TO
CASEWORKER

Check all boxes which apply regarding the risks that the Protective Services Caseworker may face in completing the Assessment, as indicated by the reporter. Additional, specific information should be included in the Description of Alleged Abuse Incidents and/or condition of Neglect.

INTAKE WORKER The Intake Worker shall print legibly his or her name, sign and date the Intake Form.

Protective Services Agencies, receiving reports from the Elder Abuse Hotline, shall not list the Hotline Worker as the Intake Worker. The Intake Worker is that person completing the Intake form.

CASENOTES

Document collateral contacts made, calls or actions taken to handle emergencies, consultation with other staff and referrals made to the Home Care Corporation or other agencies in those cases which have been screened out. Casenotes shall also include discussion with Mandated Reporters concerning a decision to screen out an Intake. Casenotes shall have noted on the left side of the page the date (and in emergencies, the time) of the contact, the name of the person contacted and agency represented. Additional Casenotes pages may be added. Casenotes should not appear on the Intake Form for contacts made after the date next to the Screener signature.

SCREENING SECTION

SCREENING
DECISION

The Protective Services Supervisor shall indicate his/her screening decision by checking one box; Screened In for Assessment, Screened Out or a Multiple Report. Multiple Report refers to (A) a report received during the Assessment, or (B) a report received on an Open case which specifies the same type of abuse or neglect as indicated in the Summary of Allegations Section.

Reports received on formerly Assessed and Not Opened cases would be checked Screened In or Screened Out and not Multiple Report.

All reports Screened In for Assessment must have Screened in Status and Case Status Boxes checked. Only the New Referral or Closed boxes in the Case Status section may be checked.

All reports Screened Out must leave Screened In Status box blank, and must have a Case Status box checked. Only the New Referral or Closed boxes in the Case Status section may be checked.

All Multiple Reports must:

- * Have either an Emergency or Non Emergency Screened In Status box checked.
- * Have either an In Assessment or Open PS Case, Case Status box checked. No Multiple Reports may have the New Referral or Closed box checked.

SCREENED IN STATUS The Emergency or Non-Emergency box shall be checked indicating whether the case is screened in for emergency or non-emergency Assessment. All screened out reports shall have this section left blank.

CASE STATUS The status of the case shall be indicated by checking one box. Multiple Reports must only have the In Assessment or Open PS Case box checked. Screened In or Screened Out cases must have only New Referral or Closed boxes checked.

In open protective cases when a report is received on the spouse of a client, the report shall be considered a New Referral if the spouse is not and was never a Protective Services client.

Reports received on cases which have been Assessed and Not Opened shall be checked as New Referrals.

Reports received on cases which have been Screened Out or Assessed and Not Opened [expunged or waiting expungement] shall be checked as New Referrals.

REASON FOR EMERG/NON E STATUS	The rationale for screening an Intake in for emergency or non-emergency Assessment shall be documented. Documentation shall cite specific facts or information gathered to support the screening status decision.
REASON FOR INTAKE SCREENED OUT	The reason for screening an Intake out shall be documented to justify the reasonable cause to believe that a reportable condition exists.
SCREENER SIGNATURE	The Supervisor completing the screening section shall print his or her name, sign and date the form in the space indicated "Screener".
CASE ASSIGNED TO	The Screener shall record the name of the Protective Services Caseworker, or Protective Services Back-up Caseworker, assigned to complete the Protective Services Assessment.

ELDER ABUSE HOTLINE REFERRAL

This section of the Elder Abuse Intake is to be completed by staff of the Elder Abuse Hotline.

The Hotline Worker shall check New or Open, PS [Protective Services] or HC [Home Care or other non Protective Services] Case, and check Case Alert if an alert is on file.

The date, time, client, caller name and other identifying information shall be completed when the Hotline provides responses on open Protective Services cases or when making Home Care case referrals. This section should not be completed in those cases where a report of abuse or neglect has been made, and the entire Elder Abuse Intake Form has been completed.

EMERGENCY

The Emergency box shall be checked if the report received by the Elder Abuse Hotline was handled as an emergency, and an after-hours local Protective Services Agency staff was contacted.

After Hours Response

RECIPIENT OF REFERRAL The Protective Services On-call Worker or designated Protective Services Agency staff first contacted by the Hotline shall be listed as the recipient of the case referral.

DATE/TIME Enter the date and time the Intake was called into the Protective Services Agency. This is the date and time Protective Services On-Call Workers are first reached.

REASON FOR EMERGENCY RESPONSE The rationale for determining that an emergency response was needed shall be documented. Documentation shall cite specific facts to support the decision that an emergency response was needed.

ACTION TAKEN Describe action taken by the Elder Abuse Hotline and local Protective Services Agency to respond to emergency calls. Include any direct contact with, for example, police or request for an ambulance. Record the reason the On-call Worker was paged, stating the specific condition or situation which was to be alleviated or resolved. Document action taken by the local On-call Worker to resolve the emergency.

REGIONAL SUPERVISOR CONTACTED When the Executive Office of Elder Affairs Regional Protective Services Supervisor or other Elder Affairs staff is contacted, record his or her name. Check the "NA" box if the Regional Supervisor was not contacted and this is not applicable.

SYSTEMS PROBLEMS Problems with accessing Protective Services Agency On-Call Workers, back-up On-Call Workers, administrative staff or Elder Affairs on-call Regional Supervisors, or the Program Director, shall be recorded, including but not limited to, malfunctioning pagers, persons who are out of pager range and incorrect home telephone numbers. Record other problems which should be addressed by the Hotline, Protective Services Agency or Elder Affairs to ensure timely emergency response. If there were no systems problems, check the "None" box.

HOTLINE WORKER The Hotline Worker completing the emergency After-Hours Response section shall print his or her name, sign and date the form in the space indicated as "Hotline Worker".

Next Day Referral

RECIPIENT OF REFERRAL Record the name and title of the Protective Services Agency staff receiving the next business day referral by phone.

DATE/TIME Enter the date and time of the next business day referral, and the date the Intake was mailed to the Protective Services Agency.

HOTLINE STAFF The Hotline Director or other Hotline staff completing the Next Day Referral section shall print his or her name, sign and date the form in the space indicated.

NON EMERGENCY

The Non Emergency box shall be checked if the report received by the Elder Abuse Hotline was handled as a non emergency.

After Hours Response

REASON FOR NON EMERG STATUS The rationale for determining that a case did not warrant an emergency response shall be documented. Documentation shall cite specific facts or information gathered to support the decision that no emergency response was needed.

HOTLINE WORKER The Hotline Worker completing the non emergency After Hours Response section shall print his or her name, sign and date the form in the space indicated.

**DESCRIPTION OF ALLEGED ABUSE INCIDENTS, CONDITION OF NEGLECT
AND/OR FINANCIAL EXPLOITATION** Include names, dates, times and specific facts.

including the incident which prompted the Reporter to call at this time.

<p>FREQUENCY OF ABUSE/ NEGLECT</p> <p><input type="checkbox"/> Daily <input type="checkbox"/> Increasing <input type="checkbox"/> Weekly <input type="checkbox"/> Decreasing <input type="checkbox"/> Monthly <input type="checkbox"/> Constant <input type="checkbox"/> Episodic: _____ <input type="checkbox"/> Unknown <small>Specify if known</small></p> <p><input type="checkbox"/> Unknown</p> <p>Date of last incident: _____ <small>Specify if known</small></p>		<p>SUMMARY OF ALLEGATIONS <i>Check all that apply</i></p> <p>1 <input type="checkbox"/> Physical Abuse 2 <input type="checkbox"/> Emotional Abuse 3 <input type="checkbox"/> Sexual Abuse 4 <input type="checkbox"/> Neglect 5 <input type="checkbox"/> Death by Abuse or Neglect 6 <input type="checkbox"/> Financial Exploitation 7 <input type="checkbox"/> Other Allegations</p>
<p>SEVERITY OF ABUSE/ NEGLECT</p> <p><input type="checkbox"/> Life Threatening <input type="checkbox"/> Increasing <input type="checkbox"/> Risk of Serious Injury <input type="checkbox"/> Decreasing <input type="checkbox"/> Risk of Minor Injury <input type="checkbox"/> Constant <input type="checkbox"/> Unknown <input type="checkbox"/> Unknown</p>		<p>DURATION OF ABUSE/ NEGLECT</p> <p><input type="checkbox"/> First Incident <input type="checkbox"/> 1 - 3 Weeks <input type="checkbox"/> 1 - 6 Months <input type="checkbox"/> 7 - 11 Months <input type="checkbox"/> 1 - 2 Years <input type="checkbox"/> 3 - 5 Years <input type="checkbox"/> 6 - 10 Years <input type="checkbox"/> More Than 10 Years</p>

CLIENT
E: _____

CASE #:	<input type="text"/>										
DATE:	/					/		TIME: _____			
AM PM											

ADDRESS: _____

PHONE: [] _____

TEMP ADDRESS: _____

PHONE: [] _____

REPORTER

NAME: _____

CLIENT AGE : _____	SEX : 1 <input type="checkbox"/> MALE 2 <input type="checkbox"/> FEMALE
-----------------------	--

AGENCY NAME/
REPORTER ADDRESS: _____

PHONE: [] _____

HOTLINE REFERRAL

REPORT SOURCE

- 10 Adult Day Health Center
- 11 Ambulance Service
- 12 Church / Synagogue
- 13 COA
- 14 Court
- 15 District Attorney's Office
- 16 Department of Public Health
- 17 Department of Social Services
- 18 Disabled Persons Protection Commission
- 19 Fire Department
- 20 Home Care Corporation
- 21 Home Health Aide Agency
- 22 Homemaker Provider Agency
- 23 Hospital
- 24 Housing Authority
- 25 Mental Health Center
- 26 Nursing Home
- 27 Nutrition Program
- 28 Police
- 29 Private Prac: Physician
- 30 Private Prac: Therapist/Psychiatrist
- 31 Social Services/Family Services Agency
- 32 Utility Company
- 33 VNA
- 77 Not An Agency
- 88 Other: _____
- 99 Unknown

OCCUPATION/ RELATIONSHIP

- 10 Coroner
- 11 Emerg Medical Technician
- 12 Firefighter
- 13 HC Casemanager
- 14 HHA
- 15 Homemaker
- 16 Nurse/ LPN
- 17 Phys/ Occ Therapist
- 18 Physician
- 19 Police Officer
- 20 Probation Officer
- 21 Social Worker/ Caseworker
- 22 Therapist Psychiatrist
- 23 Visiting Nurse
- 24 Other Mandated Reporter
Specify: _____

- 25 Self-report
- 26 Guard/ Conservator
- 27 Spouse
- 28 Housemate
- 29 Adult Child
- 30 Other Family/ Relatives
- 31 Landlord
- 32 Clergy/ Rabbi
- 33 Friend/ Neighbor
- 34 Attorney
- 35 Victim Witness Advocate
- 36 Govt Official
- 88 Other Non-mand Reporter
Specify: _____

- 99 Unknown

Elder Abuse Intake Form

Next Day Referral

RECIPIENT OF REFERRAL Record the name and title of the Protective Services Agency staff receiving the next business day referral by phone.

DATE/TIME Enter the date and time of the next business day referral, and the date that the Intake was mailed to the Protective Services Agency.

HOTLINE STAFF The Hotline Director or other Hotline staff completing the Next Day Referral section shall print his or her name, sign and date the form in the space indicated.

PJL: CRF/cb

PROTECTIVE SERVICES AGENCY CODES

<u>P. S. AGENCY/HOME CARE</u>	<u>CODE</u>
Baypath Senior Citizens Services, Inc.	11
Bristol Elder Services, Inc.	12
Central Boston Elder Services, Inc.	13
Chelsea/Revere/Winthrop Elder Services, Inc.	14
Coastline Elderly Services, Inc.	15
Elder Home Care Services of Worcester Area, Inc.	16
Elder Services of Berkshire County, Inc.	17
Elder Services of Cape Cod & the Islands, Inc.	18
Elder Services of the Merrimack Valley, Inc.	19
Franklin County Home Care Corp.	20
Greater Lynn Senior Services, Inc.	21
Greater Springfield Senior Services, Inc.	22
Health & Social Services Consortium, Inc.	23
Highland Valley Elder Services, Inc.	24
Holyoke/Chicopee Regional Senior Services Corp.	25
Minuteman Home Care Corporation	26
Montachusetts Home Care Corp.	27
Mystic Valley Elder Services, Inc.	28
Health & Education Services, Inc.	29
North Shore Elder Services, Inc.	30
Old Colony Elder Services, Inc.	31
Senior Home Care Services, Inc.	32
Senior Home Care Services Boston III, Inc.	33
Somerville/Cambridge Elder Services, Inc.	34
South Shore Elder Services, Inc.	35
Southwest Boston Senior Services, Inc.	36
Tri-Valley Elder Services, Inc.	37
West Suburban Elder Services, Inc.	38

SPECIFIC ALLEGATIONS**Serious Physical Abuse**

- Bruises, Welts
- Sprains, Dislocations
- Burns, Scalding
- Abrasions, Lacerations
- Wounds, Cuts, Punctures
- Broken Bones
- Internal Injuries
- Injury to Sexual Organs
- Injury to Vital Organs/Head
- Other: _____

Emotional Abuse

- Sleep Disturbance
- Worried, Anxious
- Irritable, Easily Upset
- Change in Eating Habits
- Loss of Interest
- Fear of Retribution
- Suicidal Talk/Wishes
- Shaking, Frequent Crying
- Other: _____

Abusive Actions (Emotional and Physical)

- Insulted/ Swore/ Yelled at Victim
- Threatened, Coerced
- Pushed, Shoved, Grabbed Victim
- Attempted to Harm
- Threw Objects at Victim
- Struck or Kicked Victim
- Choked Victim
- Threatened Victim with Weapon
- Injured Victim with Weapon
- Forced Alcohol/Meds/Substance Use
- Physically Restrained/ Tied
- Isolated/ Confined
- Locked In/Out of Home/Room
- Forced from Home
- Sexually Assaulted
- Other: _____

Serious Neglect

- Filth, Vermin, Squalor
- Skin Rashes
- Sores
- Malnourishment
- Dehydration
- Inappropriate Clothing
- Feces/Urine/Odor
- Untreated Medical Condition
- Disoriented/Confused/Becomes Lost

Serious Neglect [Continued]

- Frequent Falls with Injuries
- Homeless/Transient Living Conditions
- Other: _____

Neglectful Actions: Caregivers Withhold or Fail to Provide

- Adequate Food/Liquids
- Adequate Personal Care
- Adequate Supervision
- Prescribed Medication
- Medical Equipment or Aids
- Access to Medical Treatment
- Shelter
- Adequate Heat
- Utilities: Elec/ Water
- Other: _____

Physical Environmental Problems

- Disrepair
- Level of Cleanliness
- Architectural Barriers
- Kitchen/ Bathroom Facilities
- Living/Sleeping Area
- Utilities
- Fire Safety
- Pest Control
- Other: _____

Financial Exploitation

- Mismanagement of Income/Assets
- Signing/Cashing Checks/Documents
- Excess Fee for Services/Rent
- Transfer of Assets Under Duress
- Obtaining \$ by Threat/ Force
- Obtaining \$ by Deceit/ Trickery
- Change of Will Under Duress
- Breach of Life Estate Agreement
- Theft of Assets/ Possessions
- Other: _____

Other Allegations

- One-time Assault by Unknown Assailant
- Marital Dispute
- Homeless/ Transient
- Legal Problem
- Landlord/ Tenant Dispute
- Community Discomfort with Lifestyle
- Mutual Abuse
- Other: _____

RISK OF FUTURE ABUSE OR SERIOUS INJURY/ WHEN: _____

IS MEDICAL TREATMENT REQUIRED IMMEDIATELY: YES NO UNKNOWN

TENTATIVE DIAGNOSIS/ TREATMENT NEEDED: _____

PERSONS PROVIDING CARE AND OTHER PERSONS NAMED IN THE "DESCRIPTION OF ALLEGED ABUSE INCIDENTS, CONDITION OF NEGLECT AND/OR FINANCIAL EXPLOITATION"

Additional names and identifying information should be listed in the Casenotes section of this Intake.

1 Name: _____ Age: _____ Relationship: _____
Address: _____ Ph: [] _____

2 Name: _____ Age: _____ Relationship: _____
Address: _____ Ph: [] _____

3 Name: _____ Age: _____ Relationship: _____
Address: _____ Ph: [] _____

4 Name: _____ Age: _____ Relationship: _____
Address: _____ Ph: [] _____

5 Name: _____ Age: _____ Relationship: _____
Address: _____ Ph: [] _____

6 Name: _____ Age: _____ Relationship: _____
Address: _____ Ph: [] _____

PERSONS AWARE A REPORT HAS BEEN MADE		<input type="checkbox"/> None	<input type="checkbox"/> Unknown				
<input type="checkbox"/> Elder	Persons:	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6

OTHER PERSONS KNOWLEDGEABLE OF THE ELDER

Name	Agency/Relationship	Address	Phone

PREFERRED LANGUAGE

- American Sign
- Cape Verdean Creole
- Chinese
- English
- Finnish
- French
- Greek
- Haitian Creole
- Italian
- Khmer (Cambodian)
- Lao
- Polish
- Portuguese
- Russian
- Spanish
- Other: _____
- Unknown

- English Spoken

Communication Barriers:

ACCESS TO ELDER

- Elder Accessible
- See Outside of Home
- Access By Phone Only
- Person Barring Access
- Whereabouts Unknown

Other Barriers:

- Unknown

ELDER'S RESPONSE

- Wants Assistance
- Refusing Visit
- Fears Retribution
- No Response
- Unknown

MENTAL STATUS

- Alert/ Oriented
- Confused/ Disoriented
- Unknown

RISK TO CASEWORKER

- Guns/ Weapons in Home
- Easily Agitated
- History of Assaults on Others
- Psychiatric History
- Alcohol/ Drug Abuse History
- High Crime Area
- Dogs
- Other: _____

- None Indicated

- Unknown

INTAKE WORKER: _____

Print Name

Signature

Date

COLLATERAL CONTACTS/ EMERGENCY RESPONSE/ REFERRAL CASENOTES

Date/ Time/ Contact

Casenotes

To Be Completed by the Protective Services Supervisor or Designated Backup Supervisor

SCREENING DECISION

1 Screened In 2 Screened Out 3 Multiple Report

SCREENED IN STATUS

1 Emergency 2 Non Emergency

CASE STATUS

1 New Referral 2 In Assessment 3 Open PS Case 4 Closed

REASON FOR EMERGENCY OR NON-EMERGENCY STATUS: _____

REASON FOR INTAKE SCREENED OUT: _____

SCREENER: _____

Print Name

Signature

Date

CASE ASSIGNED TO: _____

Elder Protective Services Program
Executive Office of Elder Affairs - Commonwealth of Massachusetts

ELDER ABUSE HOTLINE REFERRAL

Hotline Use Only

- New Case
- Open Case
- PS
- HC
- EMERGENCY

Case Alert

Date: _____
Time: _____
AM PM

Client Name: _____
Age: _____ Phone: _____
Address: _____
Caller Name: _____ Ph: _____
Caller Address: _____

AFTER HOURS RESPONSE

Recipient of Referral: _____

Date: _____ Time: _____ AM PM

Reason for Emergency Response: _____

Action Taken: _____

Regional Supervisor Contacted: _____ NA
Name _____

Systems Problems: _____

None

HOTLINE WORKER: _____

Print Name

Signature

Date

EMERGENCY CONTINUED**NEXT DAY REFERRAL**

To Be Completed By Hotline Supervisor or Designated Staff

Recipient of Referral: _____ Title: _____

Date: _____ Time: _____ AM PM Date Mailed: _____

HOTLINE STAFF: _____
Print Name _____ Signature _____ Date _____**NON EMERGENCY****AFTER HOURS RESPONSE**Reason for Non Emergency Status: _____

_____HOTLINE WORKER: _____
Print Name _____ Signature _____ Date _____**NEXT DAY REFERRAL**

To Be Completed by Hotline Supervisor or Designated Staff

Recipient of Referral: _____ Title: _____

Date: _____ Time: _____ AM PM Date Mailed: _____

HOTLINE STAFF: _____
Print Name _____ Signature _____ Date _____

APPENDIX I

EXECUTIVE OFFICE OF ELDER AFFAIRS

Designated Protective Services Agencies

Baypath Senior Citizens
Services, Inc.
P.O. Box 2625
Central Station
Framingham, MA 01701
(508) 620-0840
Toll Free: (800) 287-7284

Ashland, Dover, Framingham,
Holliston, Hopkinton, Hudson,
Marlborough, Natick, North-
borough, Sherborn, Southborough,
Sudbury, Wayland and Westborough

Bristol Elder Services, Inc.
182 North Main St.
Fall River, MA 02720
(508) 675-2101

Attleboro, Berkley, Dighton, Fall
River, Freetown, Mansfield, North
Attleborough, Norton, Raynham, Re-
hoboth, Seekonk, Somerset, Swansea,
Taunton and Westport

Central Boston Elder
Services, Inc.
812 Huntington Ave.
Boston, MA 02115
(617) 277-7416

Allston, Back Bay, Brighton, Fenway,
Jamaica Plain, North Dorchester,
Parker Hill, Roxbury and South End

Chelsea/Revere/Winthrop Elder
Services
300 Broadway
Revere, MA 02151
(617) 286-0550

Chelsea, Revere and Winthrop

Coastline Elderly Services, Inc.
106 Huttleston Ave.
Fairhaven, MA 02712
(508) 999-6400

Acushnet, Dartmouth, Fairhaven,
Gosnold, Marion, Mattapoisett, New
Bedford and Rochester

Elder Home Care Services of the
Worcester Area, Inc.
1241 Main St.
Worcester, MA 01603
(508) 756-1545

Auburn, Barre, Boylston, Grafton,
Hardwick, Holden, Leicester, Mill-
bury, New Braintree, Oakham, Paxton,
Rutland, Shrewsbury, West Boylston
and Worcester

Designated Protective Services Agencies

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Elder Services of Berkshire
County, Inc.
100 North St.
Pittsfield, MA 01201
(413) 499-1353
Toll Free: (800) 292-5011

Adams, Alford, Becket, Cheshire,
Clarksburg, Dalton, Egremont,
Florida, Great Barrington, Hancock,
Hinsdale, Lanesborough, Lee, Lenox,
Monterey, Mount Washington, New
Ashford, New Marlborough, North
Adams, Otis, Peru, Pittsfield,
Sheffield, Stockbridge, Tyringham,
Washington, West Stockbridge,
Williamstown and Windsor

Elder Services of Cape Cod
and the Islands, Inc.
68 Route 134
South Dennis, MA 02660
(508) 394-4630
Toll Free: (800) 244-4630

Barnstable, Bourne, Brewster,
Chatham, Chilmark, Dennis, Eastham,
Edgartown, Falmouth, Gay Head,
Harwich, Mashpee, Nantucket, Oak
Bluffs, Orleans, Provincetown,
Sandwich, Tisbury, Truro, Wellfleet,
West Tisbury and Yarmouth

Elder Services of the Merrimack
Valley, Inc.
Riverwalk Building #5
360 Merrimack St.
Lawrence, MA 01843
(508) 683-7747
Toll Free: (800) 892-0890

Amesbury, Andover, Billerica,
Boxford, Chelmsford, Dracut,
Dunstable, Georgetown, Groveland,
Haverhill, Lawrence, Lowell.,
Merrimac, Methuen, Newbury,
Newburyport, North Andover, Rowley,
Salisbury, Tewksbury, Tyngsborough,
Westford and West Newbury

Franklin County Home Care
Corporation
Central Street
Turners Falls, MA 01376
(413) 863-9565

Ashfield, Athol, Bernardston,
Buckland, Charlemont, Colrain,
Conway, Deerfield, Erving, Gill
Greenfield, Hawley, Heath, Leverett,
Leyden, Monroe, Montague, New Salem,
Northfield, Orange, Petersham,
Warwick, Wendell and Whatley.

Greater Lynn Senior
Services, Inc.
8 Silsbee St.
Lynn, MA 01901
(617) 599-0110

Lynn, Lynnfield, Nahant, Saugus and
Swampscott

Designated Protective Services Agencies

Page 3

Greater Springfield Senior
Services, Inc.
66 Industry Ave.
Springfield, MA 01104
(413) 781-8800

Agawam, Brimfield, East Longmeadow,
Hampden, Holland, Longmeadow,
Monson, Palmer, Springfield, Wales
West Springfield and Wilbraham

Health and Education
Services, Inc.
162 Federal Street
Salem, MA 01970
(508) 745-2440 or 535-6220

Danvers, Marblehead, Middleton,
Peabody and Salem

Health and Social Services
Consortium, Inc. (HESSCO)
IGO Building
Carpenter St.
Foxborough, MA 02035
(508) 769-7440; 543-2611
Toll Free: (800) 462-5221

Canton, Dedham, Foxborough,
Medfield, Millis, Norfolk, Norwood,
Plainville, Sharon, Walpole,
Westwood, and Wrentham

Highland Valley Elder Services
320 Riverside Ave.
Northampton, MA 01060
(413) 586-2000
Toll Free: (800) 322-0551

Amherst, Blandford, Chester,
Chesterfield, Cummington,
Easthampton, Goshen, Granville,
Hadley, Hatfield, Huntington,
Middlefield, Montgomery, Northamp-
ton, Pelham, Plainfield, Russell,
burg and Worthington

Holyoke/Chicopee Regional Senior
Services Corporation
198 High St.
Holyoke, MA 01040
(413) 538-9020
Hot Line: (800) 462-2301

Belchertown, Chicopee, Granby,
Holyoke, Ludlow, South Hadley, and
Ware

Minuteman Home Care Corporation
24 Third Ave.
Burlington, MA 01803
(617) 272-7177

Acton, Arlington, Bedford, Box-
borough, Burlington, Carlisle,
Concord, Harvard, Lexington,
Lincoln, Littleton, Maynard, Stow,
Wilmington, Winchester and Woburn

Designated Protective Services Agencies

Montachusetts Home Care
545 Westminster St.
Fitchburg, MA 01420
(508) 345-7312

Ashburnham, Ashby, Ayer, Berlin,
Bolton, Clinton, Fitchburg, Gardner,
Groton, Hubbardston, Lancaster,
Leominster, Lunenberg, Pepperell,
Princeton, Shirley, Sterling

Mystic Valley Elder Services,
661 Main St., Suite 110
Malden, MA 02148
(617) 324-7705

Everett, Malden, Medford, Melrose,
North Reading, Reading, Stoneham
and Wakefield

Old Colony Elderly Service
144 Main St.,
P.O. Box 1586
Brockton, MA 02403
(508) 584-1561; 697-3338
586-3700
Toll Free: (800) 242-0246

Abington, Avon, Bridgewater,
Brockton, Carver, Duxbury, East
Bridgewater, Easton, Halifax,
Hanover, Hanson, Kingston,
Lakeville, Marshfield,
Middleborough, Pembroke, Plymouth,
Plympton, Rockland, Stoughton,
Wareham, West Bridgewater, and
Whitman

Senior Home Care Services, Inc.
2 Main St.
Gloucester, MA 01930
(508) 281-1750

Beverly, Essex, Gloucester,
Hamilton, Ipswich, Manchester,
Rockport, Topsfield and Wenham

Senior Home Care Services
Boston III, Inc.
600 Washington St., 6th floor
P.O. Box 29
Boston, MA 02112
(617) 451-6400

Beacon Hill/West End, Charlestown,
Chinatown, Columbia Point
Dorchester, East Boston, East
Mattapan, North End and South
Boston

Somerville/Cambridge Elder Services
18-48 Holland St.
Somerville, MA 02144
(617) 628-2601; 2602
TDD: 628-1705

Designated Protective Services Agencies

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South Shore Elder Services, Inc. Braintree, Cohasset, Hingham
639 Granite St. Hull, Milton, Norwell, Quincy,
Braintree, MA 02184 Randolph, Scituate, and Weymouth
(617) 848-3910; 749-6832; 383-9790;

Southwest Boston Senior Services Hyde Park, South Jamaica Plain,
23 Florence St. Roslindale, West Roxbury and West
Roslindale, MA 02131 Mattapan
(617) 325-6565; 6566

Tri-Valley Elder Services, Inc. Bellingham, Blackston, Brookfield,
284 Worcester St. Charlton, Douglas, Dudley, East
Southbridge, MA 01550 Brookfield, Franklin, Hopedale,
(508) 764-2501 Medway Mendon, Milford, Millville,
Toll Free: (800) 462-5225 Northbridge, North Brookfield,
Oxford, Southbridge, Spencer,
Uxbridge, Warren, Webster, and West
Brookfield

West Suburban Elder Belmont, Brookline, Needham, Newton,
Services, Inc. Waltham, Watertown, Wellesley and
Parker Office Bldg. Weston
124 Watertown St.
Watertown, MA 02172
(617) 926-4100

APPENDIX J

FY'90 CONTRACTED GUARDIANSHIP AGENCIES

<u>Agency</u>	<u># of Slots & Areas Covered</u>
Family & Children's Service of Greater Lynn 111 North Common Street Lynn, MA 01902 598-5517	Chelsea/Revere/Winthrop, Greater Lynn, Merrimack Valley, Mystic Valley, Minuteman, North Shore Comm. M.H., Senior H.C./Gloucester 15 slots.
Family Services of Greater Boston 34 1/2 Beacon Street Boston, MA 02108 523-6400	Central Boston, Senior Home Care/Boston III, Southwest Boston, Somerville/Cambridge, West Suburban, South Shore 20 slots
Jewish Family & Children Service 31 New Chardon Street Boston, MA 02114 227-6641	Central Boston, Senior Home Care/Boston III, Southwest Boston, Somerville/Cambridge, West Suburban, Mystic Valley, Minuteman, Old Colony and Chelsea/Revere/Winthrop 15 slots
Family Service Association of Greater Fall River 151 Rock Street Fall River, MA 02720 676-6811	Bristol, Cape & The Islands, Coastline and HESSCO 10 slots
Northern Berkshire Mental Health 85 Main Street Suite 500 North Adams, MA 01220 413-664-4541	Berkshire County & Franklin County 15 slots

River Valley Counseling Center
326 Appleton Street
Holyoke, MA 01040
413-536-8221

Greater Springfield, Highland
Valley, Holyoke/Chicopee
15 slots

Jewish Family Service
of Worcester
646 Salisbury Street
Worcester, MA 01609
755-3101

Baypath, Worcester,
Montachusett, Tri-Valley
25 slots

APPENDIX K

ELDER-AT-RISK PROGRAM

CONTRACTED AGENCIES

FAMILY SERVICES OF GREATER BOSTON
34 1/2 Beacon Street
Boston, MA 02108
(617) 523-6400

Service Areas: (1) Boston III
(2) Central Boston
(3) Chelsea/Revere/Winthrop
(4) South Shore Elder Services
(5) West Suburban Elder Services

ESAC (ECUMENICAL SOCIAL ACTION COMMITTEE)
P. O. Box 4
3134 Washington Street
Jamaica Plain, MA 02130
(617) 524-2555

Service Areas: (1) Southwest Boston
(2) All of Boston for Hispanic Elders

CHINESE GOLDEN AGE
226 Tremont Street
Boston, MA 02116
(617) 423-7560

Service Areas: (1) All of Boston for Chinese Elders

JEWISH FAMILY & CHILDREN'S SERVICES
1017 Turnpike Street, Suite 33
Canton, MA 02021
(617) 821-4990

Service Areas: (1) Old Colony
(2) HESSCO

BAYPATH SENIOR CITIZENS SERVICES, INC.
P.O. Box 2625
Central Station
Framingham, MA 01701
(508) 620-0840
Toll Free: (800) 287-7284

BRISTOL ELDER SERVICES, INC.
182 North Main Street
Fall River, MA 02720
(508) 675-2101

COASTLINE ELDERLY SERVICES, INC.
106 Huttleston Avenue
Fairhaven, MA 02719
(508) 999-6400

ELDER HOME CARE SERVICES OF THE WORCESTER AREA, INC.
1241 Main Street
Worcester, MA 01603
(508) 756-1545

ELDER SERVICES OF BERKSHIRE COUNTY, INC.
100 North Street
Pittsfield, MA 01201
(413) 499-1353
Toll Free: (800) 292-5011

ELDER SERVICES OF CAPE COD & THE ISLANDS, INC.
68 Route 134
South Dennis, MA 02660
(508) 394-4630
Toll Free: (800) 892-0890

ELDER SERVICES OF THE MERRIMACK VALLEY, INC.
Riverwalk Building #5
360 Merrimack Street
Lawrence, MA 01843
(508) 683-7747
Toll Free: (800) 892-0890

FRANKLIN COUNTY HOME CARE CORPORATION
Central Street
Turners Falls, MA 01376
(413) 863-9565

GREATER LYNN SENIOR SERVICES, INC.
8 Silsbee Street
Lynn, MA 01901
(617) 599-0110

GREATER SPRINGFIELD SENIOR SERVICES, INC.
66 Industry Avenue
Springfield, MA 01104
(413) 781-8800

HIGHLAND VALLEY ELDER SERVICES
320 Riverside Drive
Northampton, MA 01060
(413) 586-2000
Toll Free: (800) 322-0551

HOLYOKE/CHICOPEE REGIONAL SENIOR SERVICES CORPORATION
198 High Street
Holyoke, MA 01040
(413) 538-9020
Hot Line: (800) 462-2301

MINUTEMAN HOME CARE CORPORATION
24 Third Avenue
Burlington, MA 01803
(617) 272-7177

MONTACHUSETT HOME CARE CORPORATION
545 Westminister Street
Fitchburg, MA 01420
(508) 345-7312

MYSTIC VALLEY ELDER SERVICES, INC.
661 Main Street, Suite 110
Malden, MA 02148
(617) 324-7705

NORTH SHORE ELDER SERVICES, INC.
152 Sylvan Street
Danvers, MA 01960
(508) 750-4540
TDD: 744-4184

SENIOR HOME CARE SERVICES, INC.
2 Main Street
Gloucester, MA 01930
(508) 281-1750

SOMERVILLE/CAMBRIDGE ELDER SERVICES
18-48 Holland Street
Somerville, MA 02144
(617) 628-2601
TDD: 628-1705
